United Nations A/60/270

General Assembly

Distr.: General
18 August 2005

Original: English

Sixtieth session
Item 70 of the provisional agenda*
Indigenous issues

Draft Programme of Action for the Second International Decade of the World's Indigenous People

Report of the Secretary-General**

Summary

The present report is submitted pursuant to General Assembly resolution 59/174 and contains a draft comprehensive programme of action for the Second International Decade of the World's Indigenous People.

Contents

		Paragraphs	Page
I.	Introduction	1–8	2
II.	Draft programme of action	9–99	4
	A. Objectives of the Second Decade	9–10	4
	B. Areas of action	11–91	5
	1. Culture	11–23	5
	2. Education	24–34	6
	3. Health	35–41	7
	4. Human rights	42–56	8
	5. The environment	57–64	10
	6. Social and economic development	65–90	11
	C. Promotion and monitoring of the Programme of Action	91–99	14

* A/60/150.

** The present document was submitted late to ensure the inclusion of the most recent information.

05-46496 (E) 150905

I. Introduction

1. In accordance with General Assembly resolution 59/174 of 20 December 2004, the Assembly proclaimed the Second International Decade of the World's Indigenous People, commencing on 1 January 2005. According to the resolution, the goal of the Second Decade shall be the further strengthening of international cooperation for the solution of problems faced by indigenous people in such areas as culture, education, health, human rights, the environment and social and economic development, by means of action-oriented programmes and specific projects, increased technical assistance and relevant standard-setting activities. By the same resolution, the General Assembly also requested the Secretary-General to submit a report to the General Assembly at its sixtieth session on a comprehensive programme of action for the Second Decade based on the achievements of the first Decade.

2. The High Commissioner for Human Rights, as Coordinator of the first Decade, submitted reports to the Economic and Social Council, the General Assembly and the Commission on Human Rights regarding an evaluation of the first Decade.[1] In spite of important advances during the first Decade in the area of inter-agency cooperation, various activities connected with the Decade and institutional developments, especially the establishment of the Permanent Forum on Indigenous Issues and the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the High Commissioner's report points out that indigenous peoples in many countries continue to be among the poorest and the most marginalized.

3. The present report notes that the adoption of a declaration on the rights of indigenous peoples, one of the major objectives of the Decade, has not been achieved. The report considers that further efforts are needed by the Member States concerned and the international community to ensure that all indigenous people everywhere enjoy full human rights and real and measurable improvements in their living conditions.

4. The Permanent Forum on Indigenous Issues has been a valuable political meeting point for States, indigenous organizations, the United Nations system and other intergovernmental organizations and has successfully acted as a catalyst for change. The direction and outcomes of the Permanent Forum should therefore be fully taken into account in a plan of action for the Second Decade. In addition, given the fact that the time frame for the implementation of the Millennium Development Goals is the same as that of the Second Decade, the Goals and the Forum's focus and recommendations on them should also inform the plan of action.

5. In February 2005, the Coordinator of the Second Decade and Under-Secretary-General for the Department of Economic and Social Affairs invited States, United Nations system and other intergovernmental organizations, indigenous peoples' organizations and non-governmental organizations to provide input towards a programme of action for the Second Decade. The Permanent Forum held a discussion on the topic during its fourth session in May 2005 and the Working Group on Indigenous Populations held a discussion during its twenty-third session in July 2005. The following States provided suggestions for the programme of

[1] E/2004/82, A/59/277, E/CN.4/2005/87.

action of the Second Decade: Argentina, Bolivia, Denmark, Finland, Germany, the Holy See, Mexico, Norway Qatar, Sweden and Zambia. The following United Nations agencies and other intergovernmental organizations provided responses: the African Development Bank, the Economic Commission for Latin America and the Caribbean, the Food and Agriculture Organization of the United Nations, the International Labour Organization, the International Fund for Agricultural Development, the Secretariat of the Convention on Biological Diversity, the United Nations Convention to Combat Desertification, the United Nations Institute for Training and Research, the United Nations Environment Programme, the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund, the United Nations Population Fund, the World Food Programme, the World Health Organization, the World Bank and the Council of Europe.

6. Twenty-two indigenous organizations provided inputs for the programme of action. In addition, the results of the following regional and subregional indigenous consultations and conferences regarding the Decade were transmitted to the Secretariat: "Después de la Década de los Pueblos Indígenas — Recuentos y Horizontes" in Tepoztlán, Mexico; "Las Organizaciones Indígenas de América del Sur, frente al establecimiento del Segundo Decenio Internacional de los Pueblos Indígenas del Mundo" in Quito; Indigenous Peoples' Caucus of the Greater Caribbean; the International Conference "The Rights of Indigenous Peoples: Russian and World Contexts" in Karelia, Russian Federation; "Evaluación del Decenio Internacional de los Pueblos Indígenas del Mundo, Caso Guatemala" in Iximulew, Guatemala and the Round Table "Indigenous Peoples and the United Nations System" in Moscow, supplemented by the proposals of the delegates of the fifth Congress of the Organization of the Numerically Small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation.

7. Based on the above contributions, the Department of Economic and Social Affairs prepared a first draft which it submitted to the Forum for a first round of comments. A revised version of the draft including the Forum's comments was then posted on the website, sent out electronically to a global list of indigenous and other organizations available at DESA. Member States as well the United Nations system and other organizations were also invited to comment on the draft. Contributions were received from four countries; the Holy See; four United Nations agencies and 10 indigenous and other organizations. Based on the latter comments, the Department created another revised draft which was subsequently submitted to the Permanent Forum for a second round of comments. The text provided below is a reflection of the above-mentioned inputs. A compilation of the submissions received is available for consultation in the secretariat of the Permanent Forum on Indigenous Issues.

8. Proposed mottos for the Second Decade are "Partnership for further action", "Human rights in practice", "Engagement for action" and "Agenda for life".

II. Draft programme of action

A. Objectives of the Second Decade

9. Based on the above-mentioned mandate and considerations, the plan of action for the Second International Decade of the World's Indigenous People will rely on five key objectives which cut across the various areas of the goal for the Decade established by the General Assembly, namely strengthening international cooperation for the solution of problems faced by indigenous people in the areas of culture, education, health, human rights, the environment and social and economic development. Those five objectives also cut across the means set by the General Assembly for the achievement of the goal, namely action-oriented programmes and specific projects, increased technical assistance and relevant standard-setting activities. The five objectives suggested for the Decade are as follows:

(i) Promoting non-discrimination and inclusion of indigenous peoples in the design, implementation and evaluation of international, regional and national processes regarding laws, policies, resources, programmes and projects;

(ii) Promoting full and effective participation of indigenous peoples in decisions which directly or indirectly affect their lifestyles, traditional lands and territories, their cultural integrity as indigenous peoples with collective rights or any other aspect of their lives, considering the principle of free, prior and informed consent;

(iii) Redefining development policies that depart from a vision of equity and that are culturally appropriate, including respect for the cultural and linguistic diversity of indigenous peoples;

(iv) Adopting targeted policies, programmes, projects and budgets for the development of indigenous peoples, including concrete benchmarks, and particular emphasis on indigenous women, children and youth;

(v) Developing strong monitoring mechanisms and enhancing accountability at the international, regional and particularly the national level, regarding the implementation of legal, policy and operational frameworks for the protection of indigenous peoples and the improvement of their lives.

10. Keeping those objectives in mind, the following programme of action is proposed and States, the United Nations system and other intergovernmental organizations, indigenous peoples' organizations, other non-governmental organizations, the private sector and other parts of civil society are invited to strive for their implementation. In addition, indigenous issues should be promoted within the framework of major United Nations conferences and summits, including the implementation of Agenda 21, and within the framework of the Decade of Education for Sustainable Development, the International Decade for Action, "Water for Life" (2005-2015) and the World Programme for Human Rights Education.

B. Areas of action

1. Culture

11. The following recommendations are made for States, the United Nations system, other intergovernmental organizations and indigenous peoples.

(a) International level

12. It is recommended that culture should be integrated as a prerequisite and a basis for development project design in order to build "development with identity", respecting people's way of life and building sustainable human development.

13. All relevant actors are urged to implement the Action Plan of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Universal Declaration on Cultural Diversity during the Second International Decade.

14. All relevant actors are encouraged to work towards the adoption and ratification by States of the draft convention on the protection of the diversity of cultural contents and artistic expressions to ensure the right of indigenous peoples to create and disseminate in a fair environment their cultural goods and services, and their traditional expressions, so that they might benefit from them in the future.

15. It is recommended that UNESCO should intensify efforts to promote and support the recovery of indigenous heritage and the oral tradition and ancient writings of indigenous peoples with a view to recognizing them as heritage of humanity under the framework of the Convention Concerning the Protection of the World Cultural and Natural Heritage and the Convention for the Safeguarding of the Intangible Cultural Heritage.

16. UNESCO is urged to establish mechanisms to enable indigenous peoples to participate effectively in its work relating to them, such as the programmes on endangered languages, education, literacy, nomination of indigenous sites in the World Heritage List and other programmes relevant to indigenous peoples.

17. The ongoing discussion of the World Intellectual Property Organization Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore should have as its clear objective the continued development of mechanisms, systems and tools that adequately protect the genetic resources, traditional knowledge and expressions of culture of indigenous peoples at the national, regional and international levels.

(b) National level

18. States are urged to develop policies and focused programmes to reverse ethnocentric perceptions of non-indigenous peoples of indigenous cultures, which are often stereotyped, folklorized and biased. The role of mass media is very important in that process.

19. It is recommended that programmes and initiatives relating to indigenous cultures should follow the principle of free, prior and informed consent of indigenous peoples. Particular caution should be exercised when elaborating tourism and national park projects in indigenous territories.

20. Relevant agencies and bodies of the United Nations system should consider developing international guidelines on free, prior and informed consent regarding traditional knowledge of indigenous peoples.

21. National measures are strongly encouraged to facilitate public communication between indigenous peoples and the rest of the population including access to mass media.

22. It is recommended that information and communication technology should be used to support and encourage cultural diversity and to preserve and promote indigenous languages and the distinct identities and traditional knowledge of indigenous peoples in a manner that they determine best advances their goals.

23. Indigenous peoples are invited to strengthen measures to preserve, develop and promote their languages, histories and cultures through their oral histories and in printed and audio-visual forms.

2. Education

24. The following recommendations are made for States, the United Nations system and other intergovernmental organizations.

(a) International level

25. It is recommended that global efforts should be made to raise awareness of the importance of mother tongue and bilingual education especially at the primary and early secondary level for effective learning and long-term successful education.

26. The international community should continue to promote bilingual and cross-cultural education programmes for indigenous and non-indigenous peoples, schools for girls and women's literacy programmes and share good practices in the field.

27. UNESCO is urged to identify universities, primary and secondary schools and teaching and research centres for indigenous peoples that fulfil satisfactorily their programmes and projects and grant them recognition and technical and financial support promoting their work.

(b) National level

28. It is recommended that emphasis on quality education in the mother tongue, bilingual and intercultural education that is sensitive to indigenous holistic world views, languages, traditional knowledge and other aspects of their cultures should be central in all programmes of education for indigenous peoples.

29. In the framework of the Millennium Development Goals and the UNESCO Dakar Framework for Action on Education for All, States should take legislative measures to eliminate national policies and practices that create further difficulties for indigenous children to enjoy their right to education.

30. It is recommended that there should be increased awareness of the importance of integrating indigenous learning systems and knowledge in formal and informal education for indigenous peoples. That includes teaching and learning the history, traditions, culture, rights, spirituality and world views of indigenous peoples and their ways of life. Special emphasis should be placed on the education of teachers at all levels to become more indigenous-sensitive, and indigenous schools should be

set up in areas where indigenous peoples are the majority. States should recognize teaching centres in terms of labour and academic conditions in order to facilitate interchanges and cooperation among them.

31. All relevant actors are urged to provide focused programmes with increased state budgetary allocations, including scholarships to support the enrolment of indigenous persons in teacher-training programmes, colleges and relevant higher educational institutions. Special emphasis should be placed on the education of indigenous teachers at all levels.

32. In order for nomadic or semi-nomadic indigenous peoples to fully enjoy their right to education, culturally appropriate practices of education including the use of technologies should be established.

(c) Organizations of indigenous peoples

33. Organizations of indigenous peoples should consider: establishing and supporting indigenous schools and university-level institutions and collaborating with the relevant United Nations agencies; participating in the revision of school texts and the contents of programmes of study in order to eliminate discriminatory content and promote the development of indigenous cultures and, where appropriate, indigenous languages and scripts; and developing indigenous curricula for schools and research institutions.

34. Organizations of indigenous peoples should create documentation centres, archives, in situ museums and schools of living traditions concerning indigenous peoples, their cultures, laws, beliefs and values, with material that could be used to inform and educate non-indigenous people on those matters.

3. Health

35. The following recommendations are made for States, the United Nations system and other intergovernmental organizations.

36. Access to comprehensive, community-based and culturally appropriate health-care services, health education, adequate nutrition and housing should be ensured without discrimination. Measures to guarantee the health of indigenous peoples must be seen as a collective and holistic issue involving all members of the communities and including physical, social, mental, environmental and spiritual dimensions.

37. All relevant actors are urged to support and implement collection and disaggregation of data on indigenous peoples with special emphasis on indigenous children, including infants, based on criteria relating to ethnicity, cultural and tribal affiliation and language. In addition, the dissemination of information on such data to the widest possible extent among indigenous peoples, regional and local authorities and other stakeholders should be ensured.

38. It is recommended that regional and local consultations with indigenous peoples should be undertaken to appropriately integrate indigenous healers, indigenous concepts and understandings of health, wellness, healing, illness, disease, sexuality and birthing and traditional health systems into policies, guidelines, programmes and projects carried out during the Decade. Training and employment of qualified indigenous persons, including indigenous women, to

design, administer, manage and evaluate their own health-care programmes must be taken into consideration.

39. All relevant actors are urged to guarantee indigenous peoples' access, especially women's access, to information relating to their medical treatment and to secure their free, prior and informed consent to medical treatment. Health research in or affecting indigenous communities must also respect their free, prior and informed consent which may implicate their intellectual property rights. Researchers, whether academic or private sector, must practise transparency regarding the potential economic benefits of any research or knowledge of indigenous healing practices.

40. It is recommended that national monitoring mechanisms for indigenous communities to report abuses and neglect of the health system to national health authorities should be set up and the legal framework to effectively address those issues should be put in place. The fundamental human rights and critical needs in the area of health of indigenous children, youth and women are of the highest priority and that fact should be recognized and promoted through the formation of focal points or committees within each agency, organization or institution, including the full and effective participation of indigenous women and youth in planning, implementation, monitoring and evaluation of initiatives.

41. All relevant actors are urged to adopt targeted policies, programmes, projects and budgets for indigenous health problems in strong partnership with indigenous peoples in the following areas:

(a) HIV/AIDS, malaria and tuberculosis;

(b) Cultural practices which have negative impacts on health, including female genital mutilation, child marriages, violence against women, youth and children and alcoholism;

(c) Environmental degradation that adversely affects the health of indigenous peoples, including use of indigenous peoples' lands for military testing, toxic by-product storage, nuclear and industrial exploitation and contamination of water and other natural resources;

(d) Health problems connected to forced relocation, armed conflicts, migration, trafficking and prostitution.

4. Human rights

42. The following recommendations are made for States, the United Nations system and other intergovernmental organizations.

(a) International level

43. The finalization of negotiations on the draft declaration on the rights of indigenous peoples and its adoption early in the Decade should be a priority for the Second Decade. The draft shall not fall below existing international standards. Consideration may be given to innovative methods for the Commission on Human Rights Working Group on the United Nations draft declaration on the rights of indigenous people.

44. It is recommended that there should be an increased and systematic focus on the implementation of existing international standards and policies of relevance to indigenous and tribal peoples.

45. It is recommended that a global mechanism should be established to monitor the situation of indigenous peoples in voluntary isolation and in danger of extinction.

46. International human rights treaty monitoring bodies and thematic and country-specific United Nations human rights mechanisms including the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people are invited to continue to or start to specifically address indigenous peoples within their mandates throughout the Second Decade and share their reports with the Permanent Forum.

47. It is recommended that programmes of education on the human rights of indigenous peoples should be developed and strengthened, including the current Indigenous Fellowship Programme of the Office of the United Nations High Commissioner for Human Rights, in indigenous languages where possible, including relevant training materials that are culturally appropriate, and should advocate against stereotypes and ethnic stigmatization.

48. It is recommended that cooperation be developed with the Working Group on the Rights of Indigenous Populations/Communities in Africa of the African Commission on Human and Peoples' Rights with a view to increasing the participation of indigenous peoples from Africa in the implementation of the Second Decade Programme of Action and to enhancing the understanding of indigenous issues in Africa.

(b) Regional level

49. It is recommended that regional organizations should consider developing and adopting regional instruments on indigenous rights, such as the Organization of American States draft declaration on the rights of indigenous peoples, in cooperation with indigenous organizations.

(c) National level

50. Governments are urged to launch a review of national legislations to eliminate possible discriminatory provisions with the full and effective participation of indigenous experts.

51. It is recommended that a special protection framework for indigenous peoples in voluntary isolation should be adopted and that Governments should establish special policies for ensuring the protection and rights of indigenous peoples with small populations and at risk of extinction.

52. It is recommended that Governments should consider integrating traditional systems of justice into national legislations in conformity with international human rights law and international standards of justice.

53. Advocacy for good governance by local and national administrations in areas populated by indigenous peoples is strongly encouraged.

54. It is recommended that an evaluation of national machineries on human rights and indigenous peoples' rights, such as ministries of tribal affairs, commissions on indigenous peoples and human rights commissions, should be undertaken to identify strengths and weaknesses in promoting and protecting indigenous peoples' rights that shall form the basis for reforming such bodies.

55. It is recommended that Governments should support and broaden the mandate of existing national machineries for the promotion of equal rights and prevention of discrimination, so that they will include promotion of the rights of indigenous peoples. Legal centres could be established by national authorities to inform and assist indigenous people regarding national and international legislation on human rights and fundamental freedoms, to carry out activities for protecting those rights and freedoms and to promote the capacity-building and participation of indigenous peoples.

56. Governments are encouraged to further develop national legislation for the protection and promotion of human rights, including means of monitoring and guaranteeing those rights. Consideration should be given by States that have not yet done so to ratification of International Labour Organization Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, and the strengthening of mechanisms to monitor the implementation of the Convention. Where it is not already the case, it is recommended that national constitutions should recognize the existence of indigenous peoples and make explicit reference to them, where relevant.

5. The environment

57. The following recommendations are made for States, the United Nations system and other intergovernmental organizations.

58. It is recommended that the indigenous-related elements of the programme of work of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, especially on fair and equitable sharing of the benefits from the use of genetic resources, should be considered as part of the Programme of Action for the Decade, and in particular sustainable development and the protection of traditional knowledge should remain urgent priorities regarding the world's indigenous peoples.

59. Climate change and other stressors, in particular pollutants and the ecologically unsustainable use of natural resources, present a range of challenges for the health, culture and well-being of indigenous peoples, and pose risks to the species and ecosystems that those communities and cultures rely on. It is therefore essential to:

(a) Work closely with indigenous and local communities to help them to adapt to and manage the environmental, economic and social impacts of climate change and other stressors;

(b) Implement, as appropriate, sustainable and adaptive management strategies for ecosystems, making use of local and indigenous knowledge and indigenous peoples' full and effective participation, and review nature conservation and land and resource-use policies and programmes;

(c) Stress the importance of promoting procedures for integrating indigenous and local knowledge into scientific studies, and partnerships among indigenous peoples, local communities and scientists in defining and conducting research and monitoring associated with climate change and other stressors.

60. It is recommended that programmes to strengthen synergies between indigenous knowledge and science should be developed to empower indigenous peoples in processes of biodiversity governance and assessment of impacts on territories, as part of the intersectoral project of UNESCO on Local and Indigenous Knowledge Systems.

61. The Akwe: Kon Guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites on lands and waters traditionally occupied and used by indigenous and local communities, must be taken into consideration and implemented in programmes and projects carried out during the Decade.

62. It is recommended that programmes and projects planned on traditional indigenous territories or otherwise affecting the situation of indigenous peoples should foresee and respect the full and meaningful participation of indigenous peoples.

63. It is urged that indigenous persons who promote the protection of the environment should not be persecuted or harassed for their activities.

64. All relevant actors are encouraged to develop and implement programmes and projects for natural disaster management at the national and community levels with indigenous peoples' full and meaningful participation.

6. Social and economic development

65. The following recommendations are made for States, the United Nations system, other intergovernmental organizations and indigenous peoples.

(a) International level

66. It is recommended that agencies, funds and programmes of the United Nations system, including their governing bodies, should adopt programmes of activities premised on the human rights-based approach to development for the Second International Decade in their own fields of competence, in close cooperation with indigenous peoples.

67. All relevant actors are urged to establish, develop and promote strong partnerships among indigenous peoples, governments and intergovernmental bodies, agencies, funds, non-governmental organizations and the private sector during the Second Decade.

68. Indigenous peoples are encouraged to further develop sustainable practices, including subsistence practices and strategies of self reliance. Cooperation among indigenous peoples and other organizations is highly encouraged.

69. Strong grass-roots collaboration should be fostered by United Nations agencies, funds and programmes with local organizations of indigenous peoples in identifying and prioritizing programmes, projects and other activities. The United

Nations system is encouraged to provide special support to initiatives of indigenous peoples to improve the sustainability of their practices and assist them when they seek alternatives for long-term perspectives of economic activity and community well-being.

70. It is recommended that governments and international agencies should establish policies that recognize environmentally sustainable pastoralism, hunting, gathering and shifting cultivation as legitimate activities, as in the case of farming and other types of land use.

71. Before the end of the Decade, development plans that directly or indirectly impact indigenous peoples should systematically include a provision on free, prior and informed consent.

72. It is recommended that the Permanent Forum on Indigenous Issues should oversee research on the socio-economic conditions of indigenous peoples, in collaboration with specialized agencies, indigenous organizations and Governments, which should result in a report on the state of the world's indigenous peoples. An additional series of publications should be created to inform policymakers and the world at large on indigenous issues.

73. It is recommended that programmes should be particularly focused on indigenous women and girls and, specifically, on their full and effective participation and the issue of violence against women and trafficking. Governments and the United Nations system and other intergovernmental organizations are urged to integrate a gender perspective in all programmes relevant to indigenous peoples, including indigenous cultural perspectives, and work towards the implementation of the recommendations on indigenous women, children and youth made by the Permanent Forum on Indigenous Issues.

74. States and intergovernmental and non-governmental organizations and foundations are encouraged to contribute to the three United Nations Voluntary Funds established by the General Assembly to support the travel of indigenous representatives to United Nations meetings, the work of the Permanent Forum on Indigenous Issues and the programme of the Second International Decade of the World's Indigenous People.

75. It is recommended that there should be increased provision of technical and financial resources to build the capacity of indigenous peoples, government institutions and the United Nations system to address indigenous issues. Such provision should include the establishment of funds for international cooperation and funds for indigenous peoples in United Nations country offices. A process should be developed to facilitate the channelling of funds directly to indigenous peoples' organizations at the community level.

76. It is recommended that the Indigenous Fellowship Programme managed by the secretariat of the Permanent Forum on Indigenous Issues to place indigenous fellows at United Nations agencies, funds and programmes should be funded and launched. Governments and international institutions are urged to contribute to the Fellowship Programme through the United Nations Voluntary Fund for the Decade.

77. In capacity-building programmes and projects addressed to indigenous peoples, special attention should be paid to leadership training for indigenous women.

78. The United Nations system is urged to make efforts to hire indigenous individuals as United Nations staff members and experts in various fields.

79. It is recommended that consideration should be given to the establishment of a United Nations Indigenous Peoples' Fund, with adequate resources to support projects and programmes, jointly with indigenous peoples, in the areas of development, environment, education, culture, health and human rights.

80. The implementation of the Millennium Declaration, including the Millennium Development Goals, should be monitored by developing and effectively using environmental, social and human rights impact assessment methods and indicators that are sensitive to the realities of indigenous peoples.

81. It is recommended that quantifiable targets and benchmarks should be set during the Decade by States and the United Nations system to directly improve the lives of indigenous peoples and that such targets and benchmarks should be regularly monitored every two years, or half way through and at the end of the Decade.

82. All relevant actors are urged to further strengthen the Permanent Forum on Indigenous Issues and its secretariat through financial, human and technical resources. Additional human and technical resources will also ensure that the activities of the Second Decade can be effectively facilitated and overseen by the Permanent Forum.

83. Appropriate strategic partnership of the United Nations system and the private sector may be explored, involving the joint development of projects with indigenous peoples and communities. The development of a strategy is encouraged for cooperation between the United Nations system and the private sector as regards indigenous peoples. Indigenous small and medium business should be given high priority for that effort. Pilot programmes in that area are encouraged.

84. It is recommended that the United Nations system and other intergovernmental organizations should facilitate, nurture, strengthen and multiply collaboration at the international, regional and national levels among indigenous and tribal peoples and other rural and urban communities on the other hand.

(b) Regional level

85. It is recommended that the Permanent Forum on Indigenous Issues should hold regional meetings on indigenous issues with existing regional organizations with a view to strengthening cooperation and coordination. The Permanent Forum should support regional initiatives of United Nations agencies, funds and programmes, such as the Indigenous Peoples Programme of the United Nations Development Programme in Asia.

86. It is recommended that representatives of Caribbean indigenous peoples should be included in region-specific consultations and conferences in Latin America and the Caribbean, and on steering committees for planning and implementing the programme of activities for the Second International Decade. Serious consideration should also be given to organizing a special regional consultative session focusing on the unique situation of Caribbean indigenous peoples, which would take place in the Caribbean, hosted by a Member State and a local indigenous community.

87. Eastern European Governments, national institutions, international organizations and civil society are urged to promote the successful continuation of the events and activities of the 2004 Indigenous Peoples' Year of the Barents Euro-Arctic Council.

88. In an effort to systematize and build capacity, regional focal points on indigenous issues should be designated in all agencies, funds and programmes with regional offices that are mandated to follow up on the implementation of recommendations of the Permanent Forum and the objectives of the Second Decade. The Regional Programme on Indigenous Peoples in Asia of the United Nations Development Programme should be further strengthened, and its other Regional Bureaux should also develop such programmes.

(c) National level

89. It is recommended that specific policies should be considered at the national level for employment creation for indigenous peoples and for facilitating their access to financing, credit and the creation of small and medium businesses. Capacity-building measures by Governments are strongly encouraged to increase the access of indigenous persons to civil service, including through scholarships.

90. High priority is urged to systematize data collection and disaggregation and dissemination initiatives. Technical resources should be provided to national information systems to produce reliable statistics, so that the specific linguistic and cultural characteristics of indigenous peoples can be demonstrated. The work and studies of the Economic Commission for Latin America and the Caribbean can be drawn upon as an example in developing more coherent systems for data collection with respect to indigenous peoples at the national level.

C. Promotion and monitoring of the Programme of Action

91. Governments; United Nations agencies, funds and programmes; other intergovernmental organizations; indigenous and other non-governmental organizations; and civil society actors are invited to adopt plans of concrete activities with specific benchmarks to implement the goal, objectives and programme of action of the Second Decade. Gender should be mainstreamed in such activities.

92. The Coordinator of the Second Decade should collect relevant information and submit annual reports to the General Assembly on progress made in the achievement of the goal, objectives and programme of action of the Second Decade.

93. The General Assembly should hold a mid-term and end-term assessment of the Second Decade to review progress.

94. Key to the implementation of the programme of action is the full and effective participation of indigenous peoples. It is also suggested that indigenous organizations should establish a council of indigenous peoples in each region or subregion at the international level with a mandate of evaluating on an ongoing basis the degree to which the goal, objectives and programme of action of the Second Decade are being realized.

95. It is recommended that indigenous organizations should establish committees at the national and local level to monitor the implementation of the programme of action.

96. It is recommended that there should be a designation of focal points at the country level among United Nations agencies, funds and programmes with country offices, with a mandate to follow up on the implementation of recommendations of the Permanent Forum on Indigenous Issues and the goal, objectives and programme of action of the Second Decade.

97. It is recommended that Governments should establish national focal points on indigenous issues and on the Second Decade and intensify coordination and communication at the national level among relevant ministries, agencies and local authorities.

98. It is recommended that tripartite committees should be established at the country level composed of governments, indigenous peoples and United Nations country offices to promote implementation of the objectives of the Second Decade. The Permanent Forum on Indigenous Issues should consider the initiative to call for meetings at which indigenous peoples, governments and the United Nations country teams can exchange experiences with national institutions at the country level, while taking into account lessons learned from previous experiences in establishing and running such national committees. Civil society organizations may be invited to join that effort with the agreement of all three parties.

99. The United Nations system, including the Department of Public Information and the Inter-Agency Support Group for the Permanent Forum on Indigenous Issues, States, indigenous organizations, other non-governmental organizations, academia and the media are invited to adopt measures to create broad awareness and mobilization regarding the Second Decade and its goal, objectives and programme of action.

United Nations A/60/270/Add.1

General Assembly

Distr.: General
26 August 2005

Original: English

Sixtieth session
Item 70 of the provisional agenda*
Indigenous issues

Draft programme of action for the Second International Decade of the World's Indigenous People

Report of the Secretary General

Addendum

Summary

The present addendum contains proposals by the Office of the United Nations High Commissioner for Human Rights and the Working Group on Indigenous Populations of activities to be implemented during the Second International Decade of the World's Indigenous People. As these submissions were received after the deadline, they are reproduced below in their entirety.

* A/60/150.

05-47333 (E) 200905

Second International Decade on the World's Indigenous People: activities in the framework of the mandate and programme of the Office of the United Nations High Commissioner for Human Rights

(a) International level

1. Adoption of the draft United Nations declaration on the rights of indigenous peoples early in the Second Decade and the preparation of a commentary on implementation.

2. Consideration to be given to the elaboration of a binding United Nations instrument to protect indigenous peoples' rights before the end of the Second Decade.

3. Further elaboration and publication of human rights standards, guidelines, principles and commentaries on issues relating to indigenous peoples, including policy guidance to promote a human rights approach to development within the United Nations system and other international and regional organizations.

4. Continuation of efforts by international human rights treaty monitoring bodies and thematic and country-specific human rights mechanisms to address questions relating to indigenous peoples within their mandates, including analysis of emerging jurisprudence pertaining to indigenous peoples' rights.

5. Continuation and strengthening of the Indigenous Fellowship Programme and other human right training activities, including the development of training materials.

6. Action-oriented research and analysis and expert seminars on human rights challenges affecting indigenous peoples.

7. Strengthening of capacity to respond to situations of emergency and questions of peace and security affecting indigenous peoples.

(b) Regional level

8. Strengthening cooperation, including through regional meetings, between international and regional human rights mechanisms to promote and protect the rights of indigenous peoples, in particular in the Americas, Africa and the Asia and the Pacific regions.

(c) National level

9. Further development of activities, in cooperation with States, United Nations country offices and indigenous peoples, to contribute to improvements in the human rights situation of indigenous peoples, including through the inclusion of indigenous components in national human rights plans.

10. Development of specific activities to follow up recommendations made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, treaty bodies and other human rights mechanisms at the country level.

11. Expansion of the Hurist Human Rights Strengthening Programme, implemented by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme, aimed at creating national partnerships for dialogue and facilitating indigenous peoples' participation in United Nations development assistance at the country level.

12. Strengthening cooperation with national human rights institutions to promote indigenous peoples' rights.

Activities recommended by the Working Group on Indigenous Populations for possible inclusion in the programme of action, submitted to the Coordinator of the Second Decade through the Office of the United Nations High Commissioner for Human Rights in compliance with Commission on Human Rights resolution 2005/49

(a) International level

1. Adoption by the General Assembly of the draft United Nations declaration on the rights of indigenous peoples at the earliest possible date.

2. Continuation and strengthening of the Indigenous Fellowship Programme.

3. Securing the regular monitoring of the situation of the rights of indigenous peoples by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, as well as by other special procedures of the Commission on Human Rights within their respective mandates and by the United Nations treaty bodies.

4. Continuous promotion of a human rights approach to development throughout the United Nations system and other international and regional governmental organizations.

5. Ample diffusion of the standards, guidelines, principles and general comments issued by United Nations treaty bodies on issues relating to the rights of indigenous peoples, including their human rights.

6. The holding of at least one annual action-oriented expert seminar on issues which adversely affect or may adversely affect the situation of indigenous peoples in plural societies.

7. The holding in 2007, in celebration of 25 years of the presence of indigenous peoples at the United Nations, of an expert seminar to identify the progress made during this period as well as the still-unresolved challenges faced by them.

(b) Regional level

8. Continuous promotion and strengthening of the cooperation between the United Nations bodies and regional human rights mechanisms dealing with the rights of indigenous peoples.

(c) National level

9. Continuous promotion of activities intended to ensure the full compliance by States with the responsibility accepted when adopting by consensus the Declaration and Programme of Action of the 1993 World Conference on Human Rights to ensure the full and free participation of indigenous peoples in all aspects of society, in particular in matters of concern to them.

10. Continuous support for the activities included in the national programme of action for the Second Decade, which should be drafted, approved and implemented by all Member States with the full participation of the indigenous peoples living in their territories.

United Nations A/60/271

General Assembly

Distr.: General
18 August 2005

Original: English

Sixtieth session
Item 73 (c) of the provisional agenda*
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report submitted by John Dugard, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967, in accordance with Commission resolutions 1993/2 A and 2005/7.

* A/60/150.

05-46490 (E) 080905

Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967

Summary

During the past year, Israel's decision to withdraw Jewish settlers and troops from Gaza has attracted the attention of the international community. This focus of attention on Gaza has allowed Israel to continue with the construction of the wall in Palestinian territory, the expansion of settlements and the de-Palestinization of Jerusalem with virtually no criticism. This report focuses principally on these matters.

Although uncertainty surrounds the full extent and consequences of Israel's withdrawal from Gaza, it seems clear that Gaza will remain occupied territory subject to the provisions of the Geneva Convention relative to the Protection of Civilians in Time of War, of 12 August 1949 (Fourth Geneva Convention) as a result of Israel's continued control of the borders of Gaza. The withdrawal of Jewish settlers from Gaza will result in the decolonization of Palestinian territory but not result in the end of occupation.

In its advisory opinion of 9 July 2004, the International Court of Justice held that the wall currently being built by Israel in the Occupied Palestinian Territory is contrary to international law. It accordingly held that construction of the wall should cease and that those sections of the wall that had been completed in the Occupied Palestinian Territory should be dismantled. The Government of Israel has paid no heed to the advisory opinion and continues with the construction of the wall.

The wall has serious consequences for Palestinians living in the neighbourhood of the wall. Many thousands are separated from their agricultural lands by the wall and are denied permits to access their lands. Even those who are granted permits frequently find that gates within the wall do not open as scheduled. As a result, Palestinians are gradually leaving land and homes that they have occupied for generations.

Most Jewish settlers in the West Bank are now situated between the Green Line (the accepted border between Israel and the Occupied Palestinian Territory) and the wall. Moreover, existing settlements in this zone — known as the "closed zone" — are expanding and new settlements are being built. Emboldened by the support they receive from the Government and the Israel Defense Forces (IDF), settlers have become more aggressive towards Palestinians and settler violence is on the increase.

The construction of the wall, the de-Palestinization of the "closed zone" and the expansion of settlements make it abundantly clear that the wall is designed to be the border of the State of Israel and that the land of the "closed zone" is to be annexed.

Israel has embarked upon major changes in Jerusalem in order to make the city more Jewish. Jewish settlements within East Jerusalem are being expanded and plans are afoot to link Jerusalem with the settlement of Ma'aleh Adumim with a population of 35,000, which will effectively cut the West Bank in two. Palestinian contiguity in East Jerusalem is being destroyed by the presence of Jewish settlements and by

house demolitions. Some 55,000 Palestinians presently resident in the municipal area of East Jerusalem have been transferred to the West Bank by the construction of the wall. The clear purpose of these changes is to remove any suggestion that East Jerusalem is a Palestinian entity capable of becoming the capital of a Palestinian State.

The international community has proclaimed the right of the Palestinian people to self-determination and the need to create a Palestinian State living side by side in peace and security with Israel. This vision is unattainable without a viable Palestinian territory. The construction of the wall, the expansion of settlements and the de-Palestinization of Jerusalem threaten the viability of a Palestinian State.

The occupation of the Occupied Palestinian Territory continues to result in major violations of human rights. There are some 8,000 Palestinian prisoners in Israeli jails, whose treatment is alleged to fall well below internationally accepted standards. Freedom of movement is radically undermined by over 600 military checkpoints. Social and economic rights are violated. A quarter of the Palestinian population is unemployed and half the population lives below the official poverty line. Health and education services suffer and Palestinians have severe difficulties in accessing safe water. Housing remains a serious problem as a result of house demolitions conducted by the IDF in previous years. Women suffer disproportionately from these violations of human rights.

In 2004 the International Court of Justice handed down an advisory opinion in which it condemned as illegal not only the construction of the wall but many features of the Israeli administration of the Occupied Palestinian Territory. The advisory opinion was endorsed by the General Assembly on 20 July 2004 in resolution ES-10/15. Since then little effort has been made by the international community to compel Israel to comply with its legal obligations as expounded by the International Court. The Quartet, comprising the United Nations, the European Union, the United States of America and the Russian Federation, appears to prefer to conduct its negotiations with Israel in terms of the so-called road map with no regard to the advisory opinion. The road map seems to contemplate the acceptance of certain sections of the wall in the Occupied Palestinian Territory and the inclusion of major Jewish settlements in the Occupied Palestinian Territory in Israeli territory. This process places the United Nations in an awkward situation as it clearly cannot be a party to negotiations that ignore the advisory opinion of its own judicial organ.

Contents

		Paragraphs	Page
I.	Introduction	1–2	5
II.	Visit of the Special Rapporteur	3–4	5
III.	Gaza	5–11	6
IV.	The wall	12–20	8
	A. Settlements and the wall	21–26	10
	B. Settler violence	27	11
V.	Jerusalem	28–35	12
VI.	The wall, settlements and self-determination	36–37	13
VII.	Other human rights violations	38	13
	A. Freedom of the person	39–40	14
	B. Freedom of movement	41–42	14
	C. Discrimination against women	43	15
	D. Humanitarian crisis	44–48	15
	E. Right to a clean environment	49	16
VIII.	The death penalty and the Palestinian Authority	50	17
IX.	The Occupied Palestinian Territory and the international community	51–57	17

I. Introduction

1. On 8 February 2005 the President of the Palestinian Authority, Mahmoud Abbas, and the Prime Minister of Israel, Ariel Sharon, meeting in Sharm el-Sheikh, Egypt, agreed on a ceasefire in terms of which Palestine agreed to stop all acts of violence against Israelis and Israel agreed to cease all military activity against Palestinians. This raised hopes of a peace that would ultimately result in negotiations leading to the creation of a Palestinian State. The past six months have seen the maintenance of an uneasy peace. Suicide bombings in Israel have not ceased: on 25 February a suicide bombing took place in Tel Aviv, killing four and wounding 50 persons and on 12 July a suicide bombing took place in Netanya, killing five and wounding 90. There have been over 200 attacks by non-State Palestinian actors against Israeli targets but few casualties have resulted from such attacks. Violence against Palestinians has also continued: over 70 Palestinians have been killed by the Israel Defense Forces (IDF); over 500 have been wounded; and targeted assassinations have resumed. There have been over 2,000 IDF incursions into Palestinian population centres. The main focus of attention during this period has been the withdrawal of Jewish settlers from Gaza. This event, which has caused major divisions in Israeli society, has understandably received considerable attention from the international community. This attention has, however, been at the expense of major violations of human rights and humanitarian law in the West Bank. Despite the fact that, according to a report of Switzerland in its capacity as depositary of the Geneva Conventions transmitted to the General Assembly on 30 June 2005, "the vast majority of States reaffirm that the applicable legal framework and the obligations of the parties [to the Geneva Conventions] were determined by the International Court of Justice in its advisory opinion of 9 July 2004 and cannot be called into question" (A/ES-10/304, annex, para. 22). The advisory opinion of the International Court of Justice, which was confirmed by the General Assembly in its resolution ES-10/15 of 20 July 2004, has been largely overlooked. This has allowed Israel to continue with the construction of the wall in Palestinian territory, the expansion of settlements and the de-Palestinization of Jerusalem. This report will focus principally on these matters.

2. In this report the term "wall" is used in preference to the more neutral terms "barrier" and "fence". The term "wall" was carefully and deliberately used by the International Court of Justice in its advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (see A/ES-10/273 and Corr.1). The Special Rapporteur sees no reason to depart from this language.

II. Visit of the Special Rapporteur

3. The Special Rapporteur visited the Occupied Palestinian Territory from 26 June to 3 July 2005. He visited Gaza, where he had the opportunity to visit the Karni crossing and to view the destruction caused to Gaza International Airport. The Special Rapporteur visited the Palestinian side of the Rafah terminal crossing between Gaza and Egypt where he met a busload of returning Gaza residents who had waited on the Egyptian side of the border for three to four days in the sun as a result of slow processing by the Israeli immigration officials. (B'Tselem, in a recent publication entitled *One Big Prison* has described the treatment of Gazan residents by Israeli officials at the Rafah terminal as "arbitrary and disproportionate".) While

in Gaza the Special Rapporteur met with representatives of United Nations agencies, of Palestinian non-governmental organizations (NGOs) and with private individuals.

4. The Special Rapporteur then proceeded to visit the West Bank, including East Jerusalem. He visited Ramallah, Hebron, Jerusalem and Bethlehem. He also visited communities in areas adjacent to the wall in the regions of Qalqiliya (Jayyous), Tulkarem (Ras), Hebron (Imneizel), Jerusalem (Beit Surik, Beit Dukku, Anata, Abu-Dis, A-Ram, Kalandiya) and Bethlehem (An Nu'man). He met with communities affected by settlements in Hebron, At Tuwani, Bethlehem and Jerusalem. In Jerusalem, the Special Rapporteur visited Silwan where 88 houses are subject to demolition orders. During this part of the visit the Special Rapporteur met with representatives of the Palestinian Authority, United Nations agencies, Israeli and Palestinian NGOs and private individuals, many of whom had suffered personally as a result of the construction of the wall and settlements.

III. Gaza

5. At the time of writing, the situation in Gaza is highly volatile. Settler groups opposed to the withdrawal of some 8,000 to 9,000 settlers have confronted the IDF in a violent manner. At the same time, Palestinian militants have fired rockets into neighbouring Israel and Jewish settlements and engaged in violence against the Palestinian Authority. The withdrawal of settlers is planned to take place between mid-August and mid-September and it seems that this withdrawal is destined to be accompanied by further violence.

6. This volatile situation is likely to give rise to an addendum to the present report. At this stage, it is only possible to raise questions about the process of withdrawal and the future status of Gaza.

7. Great uncertainty surrounds the details of the withdrawal. While one can understand the need for some element of surprise on the part of the IDF in order to carry out the withdrawal, the consequences of this uncertainty have serious implications for Palestinians. It seems highly likely that the withdrawal will result in major disruptions to road traffic and freedom of movement which, in turn, will have serious implications for the provision of foodstuffs, access to hospitals, schools and places of employment. In these circumstances, it is difficult to understand why the Government of Israel has not made plans with the Palestinian Authority to avoid a humanitarian disaster in the Palestinian community during the one-month withdrawal period. Fears have also been voiced that insufficient account has been taken of unexploded ordnance and landmines in the vicinity of settlements and the presence of asbestos materials in some of the settlement houses scheduled for destruction.

8. The future status of Gaza is unclear. It seems unlikely that the United Nations will be in a position to issue a statement proclaiming the end of Israeli occupation of Gaza after the withdrawal as a result of the continued control to be exercised by Israel over Gaza. Furthermore, the West Bank and Gaza constitute a "single territorial unit" in terms of the Oslo Agreements and it would be incomprehensible if a statement proclaiming the end of occupation for Gaza were made without addressing the continued occupation of the West Bank. There is no clarity in respect of Israel's plans or intentions for the future of Gaza. At the time of writing, the Palestinian Authority remains in doubt over the precise forms of control to be

exercised by Israel and how much freedom will be allowed to Gaza in its relations with the outside world and the West Bank. Israel has stated that it will relinquish control of the Philadelphi route between Gaza and Egypt if Egypt is prepared to patrol its side of the border. Israel has announced that Gaza Airport may not be reopened. While it is prepared to contemplate the construction of a harbour in Gaza, it seems that Israel will claim the right to police the territorial sea of Gaza. There is also a suggestion that Israel will build a concrete barrier in the sea along the border between Gaza and Israel. The future of the movement of persons and goods between Gaza and the West Bank and between Gaza and Egypt is still unknown. Israel has to date refused proposals that persons be allowed to travel freely between Gaza and the West Bank. Indeed, family reunification of the people of Gaza and the West Bank remains unacceptable to Israel. Goods will not be allowed to move freely from Gaza to the West Bank and vice versa. A proposal that a sunken highway in a 5-metre-deep trench surrounded by fences be constructed between Gaza and the West Bank to allow the passage of Palestinian persons and goods is still subject to discussion. It is highly possible that as far as goods are concerned, the cumbersome and strictly controlled back-to-back system of transport of goods at present practised at the Karni crossing will remain in force. Israel is reluctant to allow free passage of persons and goods between Gaza and Egypt. It has suggested that the present Rafah terminal between Gaza and Egypt be moved to a crossing point at Kerem Shalom where the boundaries of Israel, Egypt and Gaza meet as this would allow Israel to retain control over access to Gaza. Customs arrangements are still the subject of negotiation. In all these circumstances, the inevitable conclusion to be drawn is that Israel is not prepared to relinquish control over the borders of Gaza. Moreover, the IDF has announced that it will not hesitate to intervene militarily in Gaza after the withdrawal of settlers if Israel's security so requires.

9. It seems clear therefore that Gaza will remain occupied territory subject to the appropriate provisions of the Geneva Convention relative to the Protection of Civilians in Time of War, of 12 August 1949 (Fourth Geneva Convention). The jurisprudence of post-war Germany shows that the test for occupation is that of continued control. In the *Hostages Trial* (*United States of America v. Wilhelm List et al.*, 1949) a military tribunal stated that it was not necessary for the occupying Power to occupy the whole territory so long as it "could at any time (it) desired assume physical control of any part of the country".[1]

10. The withdrawal of Jewish settlers from Gaza should be seen as the decolonization of Palestinian territory. This does not affect Israeli control of the territory, which will remain. Consequently, Israel will remain an occupying Power in respect of Gaza, subject to the rules of international humanitarian law applicable to occupied territory. The humanitarian crisis which Gaza has suffered since 2000 will not disappear after Israel withdraws. Continued control will prevent economic recovery and Gaza will remain an imprisoned territory in which economic and social rights suffer seriously.

11. The uncertainty surrounding Israel's post-withdrawal plans has given rise to suggestions that Israel intends to delay decisions on matters such as customs, air and sea traffic, and the movement of persons and goods for an indefinite period. Slow decisions on such matters will further distract international attention from Israel's

[1] United Nations War Crimes Commission, *Law Reports of Trials of War Criminals, vol. III*, 1949, p.56.

territorial expansion in the West Bank. Twelve months of protracted negotiations between the Government of Israel and the Palestinian Authority on these matters will allow Israel to complete construction of the wall, the consolidation of settlement blocks, and fundamental changes to the character of Jerusalem.

IV. The wall

12. In its advisory opinion of 9 July 2004 the International Court of Justice held that the wall presently being built by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem, is contrary to international law; that Israel is under an obligation to cease the building of the wall on Palestinian territory and to dismantle it forthwith; that Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory; that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall; that all States parties to the Fourth Geneva Convention are obliged to ensure that Israel complies with the provisions of that Convention; and that the United Nations should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall. On 20 July 2004 the General Assembly adopted resolution ES-10/15 in which it demanded that Israel comply with the legal obligations as mentioned in the advisory opinion. The resolution was adopted by 150 votes in favour, 6 against with 10 abstentions.

13. The Government of Israel refuses to accept the advisory opinion of the International Court of Justice. It does, however, pay some attention to the decision of its own High Court in the *Beit Sourik Village Council v. The Government of Israel* of 30 June 2004 which held that while the wall might be built to ensure security, it should not impose undue hardships on Palestinians. Unfortunately, this decision has not been applied to most sections of the wall constructed before the decision was handed down in July 2004.

14. On 20 February 2005 the Government of Israel marginally modified the planned route of the wall. In terms of this decision the wall, once completed, will be 670 km long compared with 622 km of the prior route. The new route runs for 135 km on the Green Line compared to 48 km of the prior route. The new route of the wall will follow the Green Line, or be close to the Green Line, in the locality of the Hebron Hills. It will penetrate more deeply into Palestinian territory further north to include settlements in the Gush Etzion block near Bethlehem, housing over 50,000 settlers. It has also been decided to include the settlement of Ma'aleh Adumim and Ariel on the Israeli side of the wall. This will result in some 10 per cent of Palestinian land being included in Israel. (The previous route resulted in the seizure of 12.7 per cent of the West Bank.) The wall will enclose, on the Israeli side, 170,000 settlers (not including those in East Jerusalem) and 49,000 Palestinians, living in 38 villages.

15. To date 213 km of the wall have been built from the northern border of the West Bank near Tubas to roughly Elkana in the centre, plus two segments in Jerusalem. Construction is still under way between Elkana and Jerusalem; around the settlements of Ariel and Immanuel; in and around East Jerusalem; and from Gush Etzion to Metzudat Yehuda on the southern border of the West Bank in Hebron Governorate. Although construction of the wall has progressed rapidly since the

advisory opinion of the International Court of Justice, the Israeli Prime Minister, Ariel Sharon, rebuked the defence establishment on 6 July for "taking too long" in the construction of the wall and instructed it to speed up its construction since there were no financial constraints. Petitions to the High Court against the course of the wall have been largely responsible for delays in the completion of the wall. An injunction restraining the building of the wall around the settlement of Ariel which will extend the wall 22 km into the West Bank was lifted on 17 May 2005 and work on the construction of the wall around the eastern border of this "finger" into Palestinian territory has been started. That Israel intends to enclose Ariel within the wall is clear from a statement by Mr. Sharon on 21 July 2005 that the Ariel block "will be part of the State of Israel forever" and that "it will always be an inseparable part of the State of Israel".

16. The Special Rapporteur viewed the wall and construction sites of the wall in many areas. He visited the wall near Jayyous and Ras in Qalandiya and Tulkarem districts; around Rachel's Tomb in Bethlehem; along the road to Kalandiya in A-Ram; over the hills of Abu-Dis and Anata; and Imneizel in the south Hebron Hills. The wall, or barrier as some prefer to call it, has been built without concern for the environment. It is ugly, and has resulted in the destruction of olive groves, citrus orchards and grazing fields and the disfigurement of towns and villages. In previous reports the Special Rapporteur has expressed the view that the wall seems to have been built without regard to security considerations in many areas (for instance, in some areas the wall is built in the valley below Palestinian villages). The most recent visit to the wall has confirmed this view.

17. The zone between the wall and the Green Line, the internationally accepted border between Israel and the West Bank, is known as the "closed zone" or "seam zone". Within this zone, live some 49,000 Palestinians. A greater number of Palestinians, however, live on the West Bank side of the wall while their lands are in the "closed zone". Both these Palestinian communities are seriously affected by the wall. Those living within the "closed zone" have difficulty in accessing family, hospitals, schools, markets and employment within the West Bank. Those living on the West Bank side of the wall require permits to access their own agricultural land. Whereas in previous years such persons were mainly refused permits for security reasons, today it appears that permits are mainly denied when the owner or user of land is unable to provide convincing evidence of ownership or title to the land. A landowner applying for a permit to access his own land must submit a land registration certificate. However, proof of ownership is alien to the traditional Palestinian land ownership system and has been resisted by Palestinian landowners over many generations. In part this can be ascribed to the fact that the registration of land under the Ottomans was very slow and little progress was made in respect of land registration during the British Mandate period or during the period of Jordanian rule before 1967. It is therefore not uncommon that people are unaware of the actual status of the land they are cultivating as they have not previously been required to prove ownership of the land. Much of this land has been held in families for generations according to traditional land tenure systems without registration. In these circumstances the demand for proof of land ownership or title to land is often an insurmountable obstacle. Permits are refused on this ground and because the applicant is considered to be too distant a relation of the landowner. In the Governorate of Tulkarem, in the period 1 March to 31 May 2005, 58 per cent of 315 applicants from Attil, Deir al Ghusun and Illar received permits; 22 per cent of 900

applicants from Akkaba received permits; and 19 per cent of 1,222 applicants from Baqa ash Sharqiya, Nazlat Issa and Abu Nar received permits. In Qaffin, with a population of 9,000, 600 families — between 3,000 and 3,600 people — have land and trees on the other side of the fence. In May 2005, 1,050 villagers applied for permits to access their land. Only 70 were granted permits, 600 received a negative reply and the rest, 380 people, received no reply at all. The reason most frequently given for rejection was that the applicant was too distant a relation to the landowner. Several sons and grandsons of landowners were denied permits because they were considered "distant relatives". Between January and June 2005, some 3,545 applications for permits were submitted in the Tulkarem area. Of these, 2,404 were refused, mostly on the grounds of inadequate proof of relationship to the owner.

18. To aggravate the situation, the 25 gates that are supposed to provide access to the "closed zone" are frequently locked or opened in an arbitrary manner. Permit holders often have to wait for many hours for gates to open and sometimes they do not open at all. In May and June 2005 fires broke out in the "closed zone" but the IDF denied farmers access to their lands to put out the fire.

19. Houses too close to the wall are sometimes destroyed. On 27 July 2005 houses in the area of the town of Al-Khadr were destroyed.

20. Many persons whose land is adjacent to the "closed zone" find refused permits, closed gates and destroyed homes too much to bear. This explains why Palestinians are gradually leaving land and homes that they have occupied for generations. Figures are uncertain but it seems that 11,000 persons have already been displaced as a result of the construction of the wall. This new generation of displaced persons creates a new category of Palestinian refugee. The neglect and abandonment of land will allow the Israeli authorities to seize the land under the terms of an old Ottoman law and to hand it over to the settlers.

A. Settlements and the wall

21. Jewish settlements in the West Bank and Gaza are illegal. They violate article 49 (6) of the Fourth Geneva Convention and their illegality has been confirmed by the International Court of Justice in its advisory opinion on the wall. There can therefore be no justification for the retention of settlements. A fortiori, the expansion of settlements must be completely unacceptable to the international community.

22. Most settlers and settlements in the West Bank are to be found on the Israeli side of the wall. Some 170,000 settlers live in 56 settlements in the "closed zone", that is 76 per cent of the settler population in the West Bank. New settlements or the expansion of existing settlements are being planned for the "closed zone". The Special Rapporteur saw evidence of such an expansion near Jayyous where the settlement of Zufin is being expanded to encroach further on the fields of Jayyous farmers in the "closed zone".

23. The expansion of settlements is clear to anyone who visits settlement sites. Cranes generally mark the skyline of settlements and there is abundant evidence of building activity. The figures confirm settlement growth and expansion. On 8 June 2005 the Israeli Central Bureau of Statistics reported that Israel had built almost twice as many settler homes in the first quarter of 2005 as in the same period of

2004. At the same time, housing starts in Israel itself fell 6 pert cent from the first quarter of 2004.

24. Three major settlement blocks, the Gush Etzion block, the Ma'aleh Adumim block and the Ariel block — all of which are to be surrounded by the wall — will effectively divide Palestinian territory into cantons or Bantustans. These cantons will be linked by special roads or tunnels. This results in transportation contiguity as opposed to territorial contiguity. This means that Palestinians will be able access different parts of the West Bank but the territorial unity essential for the creation of a viable State will be absent.

25. The construction of the wall, the de-Palestinization of the "closed zone" and the expansion and construction of settlements in the "closed zone" make it abundantly clear that the wall is designed to be the border of the State of Israel and that the land of the "closed zone" is to be annexed. Already members of the IDF inform international representatives visiting the "closed zone" that it is part of Israeli territory. This is understandable as, after all, Israelis have free access to the "closed zone" whereas Palestinians require special permits to enter this zone. Further evidence of the fact that Israel views the wall as an international boundary is provided by the construction of checkpoint terminals in the wall which resemble international crossing points in size and structure. (Like the Karni crossing in Gaza, these terminals will also practice "back-to-back" crossing.) Writing in *Ha'aretz* of 12 July 2005, Knesset Member Ran Cohen stressed that Israelis increasingly refuse to accept the Green Line as the border between Israel and the West Bank. Further proof of Israel's intentions was provided by Mr. Sharon during his visit to Paris on 28 July 2005. Addressing a meeting of the Jewish community, Mr. Sharon stated that thanks to the disengagement from Gaza "Israel has gained unprecedented political achievements" including "a guarantee that the major population centres in Judea and Samaria [that is, the West Bank] will remain part of Israel in any final status agreement; and there will be no return to the 1967 borders...".

26. In August 2005 Israel will withdraw Jewish settlers from four settlements in the northern West Bank: Ganim, Kadim, Homesh and Sa-Nur. Israeli Government spokesmen have vehemently denied that any further withdrawal of settlers from the West Bank is contemplated.

B. Settler violence

27. Statistics show that settler violence is on the increase. Sixty-eight incidents of settler violence were reported in May 2005 and 67 in June. Prosecutions of settlers are rare, and it seems that settlers are able to terrorize Palestinians and destroy their land with impunity. As on previous visits to Hebron, the Special Rapporteur was subjected to abuse from settlers. The Special Rapporteur also had occasion to visit the settlement at Tel Rumeida in Hebron. This settlement in the middle of Hebron has recently been expanded and there is increased pressure on the part of the settlers to drive out their Palestinian neighbours by a process of terrorization. A visit to the community of At-Tuwani provided further evidence of settler violence. Schoolchildren are beaten and terrorized by settlers on the way to school and wells and fields have been poisoned. Crops have been destroyed, sheep and goats stolen and poisoned. The police and IDF do little to protect cave dwellers, peasants and shepherds in this region.

V. Jerusalem

28. East Jerusalem is not part of Israel. On the contrary, it is occupied territory, subject to the Fourth Geneva Convention. Unfortunately, Israel's illegal attempt at annexation of East Jerusalem has obscured this truth. As a consequence world public opinion tends, incorrectly, to treat Israel's occupation of East Jerusalem as different from that of the West Bank and Gaza.

29. Israel has embarked upon major changes to the character of Jerusalem. In essence, these changes are designed to reduce the number of Palestinians in the city and to increase the Jewish population of the city and thereby to undermine Palestinian claims to East Jerusalem as the capital of an independent Palestinian State. That this is the purpose of the wall in Jerusalem was acknowledged by the Israeli Minister for Jerusalem Affairs, Haim Ramon, on 10 July when he stated that the route of the wall would make Jerusalem "more Jewish". He added, "The Government is bringing security to the city and will also make Jerusalem the capital of a Jewish and democratic State of Israel."

30. Jewish settlements within East Jerusalem are to be expanded. Already there are some 184,000 settlers in East Jerusalem who will find themselves between the wall and the Green Line. Now, the settlement of Ma'aleh Adumim, with a population of 35,000, is to be joined to Jerusalem by some 3,600 housing units to be constructed in the so-called "E1" area. These units will accommodate some 20,000 settlers. New settlements are also being built near Walajeh (Nof Yael), Har Homa (Har Homa II), Jabel Mukabbir (Nof Zion), Abu Dis (Kidmat Zion), Binyamin (Geva Binyamin) and Giv'at Ze'ev (Agan ha-Ayalot) to form a Jewish urban belt around Palestinian East Jerusalem.

31. Palestinian contiguity in East Jerusalem is to be disrupted by the demolition of Palestinian houses, the expansion of settlements and the creation of parks. This is evident in the Silwan region where 88 houses have been subjected to demolition orders to make way for a park. This will further the linking up of Jewish settlements in Silwan and adjacent areas, thereby destroying the contiguity of Palestinian neighbourhoods. Even in the Old City, Jewish settlements are expanding.

32. Some 230,000 Palestinians live in East Jerusalem. The wall in the Jerusalem area is being constructed to transfer many Palestinians with Jerusalem identity documents to the West Bank. This is best seen in the transfer of the Palestinian neighbourhood of Shuafat (which includes 11,000 refugees), and of Salaam and Dar Khamis neighbourhoods in Anata, presently within Jerusalem's municipal boundary, to the West Bank. This will result in the transfer of some 55,000 Palestinians from Jerusalem to the West Bank. To this figure we must add about another 50,000 people who have Jerusalem identity cards who live in the satellite communities of East Jerusalem outside the Jerusalem municipal boundary such as Al-Ram, who migrated to such communities because they could not find housing inside the city owing to the expropriation of land and building restrictions. This means that the wall harms over 40 per cent of East Jerusalem's 230,000 Palestinians. The Israeli historian Tom Segev states, "What is happening today in Jerusalem goes beyond security needs and reflects the essence of the original Zionist dream. Maximum territory, minimum Arabs."

33. In a recent report titled *The Jerusalem Powder Keg*, the International Crisis Group states:

> "Stretching municipal boundaries, annexing Palestinian land and building new Jewish neighbourhoods/settlements, Israel has gradually created a municipal area several times Jerusalem's earlier size. It has also established new urban settlements outside the municipal boundary to surround the city, break contiguity between East Jerusalem and the West Bank, and strengthen links between these settlements, West Jerusalem and the rest of Israel" (p.i.).

34. The changes described above may serve the political interests of Israel, but they do so at the expense of the Palestinian population. Not infrequently, family members have different identity documents. The wife may have Jerusalem identification while her husband may hold West Bank identification. Whether they will be permitted to live together remains to be seen. At present many Jerusalem identity holders are employed in the West Bank. Uncertainty surrounds the question whether they will be permitted to cross freely into the West Bank or whether they will have to choose between the West Bank and Jerusalem. Access to schools and hospitals will also present serious difficulties.

35. Jerusalem is an historical city of great beauty. The wall has done much to disfigure the city. Those responsible for planning and constructing the wall in Jerusalem have done so with complete disregard for the environment. All this has been done in order to transform Jerusalem into a Jewish city.

VI. The wall, settlements and self-determination

36. In its advisory opinion the International Court of Justice stressed the right of the Palestinian people to self-determination. In recent times politicians of all persuasions have given support to a two-State solution, with the States of Israel and Palestine living side by side in peace and security. This vision is unattainable without a viable Palestinian territory. The construction of the wall, the expansion of settlements and the de-Palestinization of Jerusalem are incompatible with the two-State solution. Interlocutors within both Israel and the West Bank warned the Special Rapporteur that with the two-State solution becoming increasingly difficult, if not impossible, consideration should be given to the establishment of a binational Palestinian State. The demography of the region increasingly points to such an outcome.

37. In its advisory opinion the International Court of Justice stated that it noted "the assurance given by Israel that the construction of the wall does not amount to annexation and that the wall is of a temporary nature". The Court, however, considered "that the construction of the wall and its associated regime create a 'fait accompli' on the ground that could well become permanent, in which case, and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to de facto annexation" (para. 121). It is highly arguable that this stage has now been reached. The prohibition of the annexation of territory by force is, of course, one of the most fundamental principles of international law.

VII. Other human rights violations

38. The Special Rapporteur has focused in this report on what he considers to be the principal violations of human rights. The wall and settlements seriously

undermine the fundamental right of self-determination of the Palestinian people upon which all other rights depend. In large measure, the wall and settlements are a consequence of occupation. The regime of occupation by definition results in a violation of human rights. A prolonged occupation of the kind to which the Palestinian people have been subjected for 38 years inevitably poses a threat to most basic human rights. This is confirmed by the Palestinian experience.

A. Freedom of the person

39. In the past year Israel has released some 900 Palestinian prisoners. In the same period over 1,000 new prisoners have been taken. Consequently, there are still over 8,000 prisoners in Israeli jails. Of this number, some 120 are women. Over 300 children under the age of 18 are in Israeli detention centres. Forty per cent of them have been sentenced to imprisonment and 60 per cent are in pre-trial detention. Over 600 of those imprisoned are in administrative detention, that is, they are persons held without trial. Family visits remain a serious problem. As prisons are situated in Israel and many Palestinians are denied admission to Israel, a majority of prisoners receive no family visits. While the future of Palestinian prisoners from the West Bank and Gaza is subject to scrutiny under the Sharm el-Sheikh Agreement, Palestinian prisoners from East Jerusalem are overlooked. Prison conditions are harsh: prisoners live in overcrowded and poorly ventilated cells which they generally leave for only two hours a day. Allegations of torture and inhuman treatment of detainees and prisoners continue. Such treatment includes beatings, shackling in painful positions, kicking, prolonged blindfolding, denial of access to medical care, exposure to extreme temperatures and inadequate provision of food and water.

40. There are very few prosecutions of IDF soldiers for injury to Palestinians, despite the high number of casualties at the hands of the IDF. The impunity of the IDF was taken one step further in 2005 by a law passed by the Knesset in 2005, with retrospective effect to 2000, which seriously restricts the right of Palestinians to sue for damages incurred during the intifada. Palestinians will only be able to sue for traffic-related claims and cases in which a Palestinian suffered physical harm while being held in military detention.

B. Freedom of movement

41. Checkpoints in both the West Bank and Gaza continue to seriously undermine the freedom of movement. As of April 2005, the number of checkpoints has been reduced from around 680 to 605. However, greater recourse is now made to so-called "flying" checkpoints, that is, temporary military road checkpoints established at random. In May 2005, 368 "flying" checkpoints were recorded and in June 2005 there were 374 "flying" checkpoints. The implementation of the checkpoint regime violates human dignity. The extent to which this occurs is clear from a recent report by MachsomWatch, entitled *A Counterview: Checkpoints 2004*. MachsomWatch is an organization of some 500 Israeli women drawn from different backgrounds who, in the pursuit of peace in the region, voluntarily monitor the behaviour of the IDF at checkpoints. The cited report states:

> "The checkpoint regime is arbitrary and random, and the regulations governing them change constantly, often dependent on the whim of a soldier on duty at the checkpoint... At the checkpoints ... we witness the methodical embittering of the Palestinians' lives. ... Anyone who has seen the anxious smile on a man's face as he extends his ID to be checked by an indifferent woman-soldier in the checking-position, cannot forget or disregard the injustice. We document the little humiliations and the tensions, day after day, the ignoring of the Palestinian Other's humanity, as well as the expression of the overflowing rage of an occupied people" (pp. 8-10).

42. Although curfews are less frequently imposed than in previous years, this method of restricting freedom of movement is still resorted to. In May 2005, 23 curfews were imposed and in June there were 16.

C. Discrimination against women

43. Occupation and the wall unevenly violate women's rights. Palestinian women are routinely harassed, intimidated and abused by Israeli soldiers at checkpoints and gates. They are humiliated in front of their families and subjected to sexual violence by both soldiers and settlers. There are approximately 120 Palestinian women prisoners of whom 11 are in administrative detention — that is, held without charge or trial. Women prisoners are subjected to gender-based violence while subject to investigation and in detention. Moreover, prison conditions raise concerns for their health and well-being. Restriction of movement owing to the occupation severely impedes Palestinian women's access to education and health. Restrictions on movement limit opportunities for independence and decrease the number of women seeking formal education or employment as the culture of the region requires women to study and work from home. Women's health has suffered as a result of their inability to reach health centres. Pregnant women are vulnerable to long waits at checkpoints. A number of unsafe deliveries in which both mothers and infants have died have occurred at checkpoints. From the beginning of the second intifada to March 2004, 55 Palestinian women have given birth at checkpoints and 33 newborns were stillborn at checkpoints, owing to delays or denial of permission to reach medical facilities. Unemployment and poverty resulting from the occupation have been shown to produce divorce and domestic violence. The Israeli Nationality and Entry into Israel Law of 2003 aims to stop family unification when one spouse is a resident of the Occupied Palestinian Territory. The result of this law is that thousands of affected family members live separately from each other with no legal means available to unify the family. The only way to maintain the unity of the family is to reside illegally in Israel, in permanent fear of investigation and expulsion. This places an immense burden on the psychological state of Palestinian women. The law, which does not apply to Israeli settlers living in the Occupied Palestinian Territory or to Israeli Jews marrying aliens, institutes a discriminatory system based on national origin and is directed exclusively against Palestinians.

D. Humanitarian crisis

44. The Occupied Palestinian Territory has a population of 3.8 million (2.4 million in the West Bank and 1.4 million in the Gaza Strip). Approximately 42 per cent of

the population (1.6 million) are registered refugees. There is a natural increase of 3.5 per cent.

45. Previous reports have drawn attention to the humanitarian crisis in the Occupied Palestinian Territory resulting from the occupation and the construction of the wall. Unemployment reached 25 per cent (34 per cent in Gaza and 23 per cent in the West Bank) in the last quarter of 2004. This is equivalent to 93,000 unemployed in Gaza and 133,000 in the West Bank. Loss of access to jobs in Israel is a major cause of unemployment. Approximately half of the population, or 1.8 million people, live below the official poverty line of US$ 2.10 per day. Subsistence poverty, that is the inability to afford basic survival, is estimated at 16 per cent. Poverty is higher in Gaza (65 per cent) than in the West Bank (38 per cent). Poverty is the result of growing unemployment, closures, the loss of property caused by IDF house demolitions, land requisitions and the levelling of land. Agricultural incomes have dropped considerably as a result of the destruction of agricultural areas and the isolation of land and wells behind the wall.

46. Closure has limited the ability to access health and education services. The provision of health services has dropped remarkably as a result of restrictions in access. The quality of education has deteriorated because schools have been obliged to shorten teaching hours as a result of wall gate-opening times. Furthermore, children are forced to drop out of school either to help supplement diminishing family incomes or because their parents can no longer afford to send them to school.

47. Palestinians have faced severe difficulties in accessing safe water. Repeated IDF incursions have resulted in the destruction of water and sanitation infrastructure. Moreover, restrictions on movement have prevented Palestinians from reaching water supplies.

48. Although the IDF has discontinued punitive house demolitions and the past six months have not witnessed major house demolitions in the interests of so-called military necessity, there is a substantial shortfall of housing caused by IDF house demolitions in previous years. In Gaza many thousand persons still remain homeless. Houses are still demolished for failure to obtain a building permit. This form of house destruction, known as "administrative" demolitions, is still widely practised, particularly in Jerusalem. As it is virtually impossible for Palestinians to obtain building permits, many houses are built without permits. The occupants of such houses run the risk of arbitrary demolition.

E. Right to a clean environment

49. Many features of the occupation are carried out with scant regard for the environment of the Occupied Palestinian Territory. The wall has resulted in the disfigurement of the hills and towns of Palestine. The discharge of sewage from Jewish settlements onto Palestinian land is a serious problem. Many settlements in the West Bank have no form of treatment of industrial or domestic wastewater and the effluent flows into nearby Palestinian valleys without consideration of its environmental impact. Moreover, it is now proposed that solid waste from Israel is to be dumped in the Abu Shusha quarry in the district of Nablus. As noted above, lands in the At-Tuwani district have been deliberately poisoned by settlers.

VIII. The death penalty and the Palestinian Authority

50. The Special Rapporteur's mandate does not extend to human rights violations committed by the Palestinian Authority. It would, however, be irresponsible for a human rights special rapporteur to allow the execution of Palestinian prisoners to go unnoticed. Since 2002, the Palestinian Authority has refrained from carrying out the death penalty. In 2005, however, five Palestinian prisoners have been executed. The level of civilization of a society can be measured by its attitude towards the death penalty. The Special Rapporteur expresses the hope that these executions were aberrations and that the Palestinian Authority will in future refrain from this form of punishment.

IX. The Occupied Palestinian Territory and the international community

51. The withdrawal of settlers from Gaza is a momentous event. It will end the colonization of Gaza, free more land for Palestinians and result in the departure of the IDF from Gaza. It is a positive step and one to be welcomed. Gaza will, however, remain controlled, albeit not colonized. The human crisis in Gaza is likely to continue as the economy will further deteriorate because of Israeli control. Withdrawal from Gaza should not be allowed to divert attention from what is happening in the West Bank. The construction of the wall and the expansion of settlements seriously threaten the right to self-determination of the Palestinian people and undermine prospects for Palestinian statehood. The annexation of Palestinian territory is probably already a fait accompli.

52. After finding that the construction of the wall in the Occupied Palestinian Territory and its associated regime are contrary to international law, the International Court of Justice held that States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance. This requires that States refuse to recognize or support the permit system for accessing the "closed zone" or accepting goods produced in settlements between the wall and the Green Line. This has particular implications for States members of the European Union that import agricultural goods from Israeli territory. They are obliged to carefully scrutinize the origin of such goods and to refuse to accept produce emanating from the "closed zone".

53. The International Court held that Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. In pursuance of this finding the General Assembly in resolution ES-10/15 requested the Secretary-General to establish a register of damage caused to all natural or legal persons who have suffered as a result of the construction of the wall. On 11 January 2005 the Secretary-General wrote to the President of the General Assembly (A/ES-10/294) setting out the legal and institutional framework for such a register. This process has made little progress and appears to have been lost in the bureaucracy of the United Nations. This is unfortunate because the International Court of Justice clearly attached great importance to Israel's obligation to pay compensation for the destruction of homes, orchards, olive groves and agricultural land caused by the construction of the wall.

54. The Security Council is clearly disinclined to place pressure on Israel to implement the advisory opinion of the International Court of Justice. On 21 July, the Security Council decided not to embark on a consideration of the construction of the wall and the advisory opinion, following a briefing on the situation given to the Council by the Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General, Alvaro de Soto (see S/PV.5230 and Resumption 1). European States seem to share this approach. This is evidenced by a report in *Ha'aretz* of 28 July 2005 which says of a meeting between Mr. Sharon and President Chirac: "Israeli-Palestinian relations hardly came up in the meeting, Israeli participants said. Based on a prior understanding, the French avoided controversial issues, such as construction in West Bank settlements, the location of the separation fence and the (day after) the disengagement."

55. In resolution ES/10-15, the General Assembly in ted Switzerland, in its capacity as the depositary of the Geneva Conventions, to conduct consultations and report to the Assembly on Israel's non-compliance with the Fourth Geneva Convention and to consider the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention. The Government of Switzerland produced the report cited in paragraph 1 in which it found that there was little support for the convening of a conference, although it found that the majority of States believe that the legal framework for confronting the situation in Palestine was provided by the advisory opinion of the International Court of Justice. The Government proposed the establishment of two separate dialogue groups, one with Israel, the other with the Palestinian Authority, reporting to the Quartet (see A/ES-10/304, annex, para. 59). This demonstrates the confidence placed in the Quartet. The most recent statement of the Quartet, of 23 June 2005, however, raises the question whether this confidence is well placed. While this statement expresses the concern of the Quartet "over settlement activity", it fails to mention the construction of the wall, the expansion of settlements (as opposed to activity), the disfigurement of Jerusalem, the violation of human rights in the Occupied Palestinian Territory and self-determination of the Palestinian people (although Palestinian statehood is contemplated). This suggests that the Quartet and the road map process to which it is committed are not premised on the rule of law or respect for human rights. If this is so, the road map runs the risk of repeating the failures of the Oslo process which likewise took no account of human rights considerations. The mandate of the Special Rapporteur is to report on violations of human rights law and international humanitarian law in the Occupied Palestinian Territory. This mandate must surely extend to the attitude of States and international organizations to the situation in the Occupied Palestinian Territory. This compels the Special Rapporteur to question the approach of the Quartet.

56. The United Nations finds itself in a particularly difficult position. On the one hand it is a party to the Quartet; on the other hand it is obliged to comply with the advisory opinion of its own judicial organ. Although this opinion may be advisory to States, it accurately reflects the law governing the construction of the wall and may be described as the law of the United Nations. In addition, the International Court held that "the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present advisory opinion" (A/ES-10/273, advisory opinion, para. 160). This makes it clear that the United Nations is under a legal

obligation to take action to bring to an end the construction of the wall. This was confirmed by the General Assembly in resolution ES/10-15 of 20 July 2004.

57. **The Government of Israel is determined to defer final status negotiations for as long as possible to enable it to establish as many facts on the ground as possible before such negotiations begin. The international community should be aware of this obvious fact and do its best to ensure that such negotiations commence forthwith. Only a resolution to the conflict which ends Israeli occupation of the Occupied Palestinian Territory, the construction of the wall, the expansion of settlements and the de-Palestinization of Jerusalem will lead to an environment in which there is hope for respect for human rights.**

United Nations A/60/272

General Assembly

Distr.: General
18 August 2005

Original: English

Sixtieth session
Agenda item 73 (b) of the provisional agenda*
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Protection of migrants

Report of the Secretary-General

Summary

The present report, submitted in accordance with General Assembly resolution 59/194, contains a summary of communications received from the Governments of Azerbaijan, Croatia, El Salvador, Ireland, Kazakhstan, Lebanon, Lithuania, Morocco, Mexico, the Philippines and Ukraine in response to a note verbale sent on 24 May 2005 by the Office of the United Nations High Commissioner for Human Rights.

In the report the Secretary-General welcomes the appointment of Jorge A. Bustamante as Special Rapporteur on the human rights of migrants. He also thanks Gabriela Rodríguez Pizarro, who had held the post since its creation in 1999, for her important work in establishing and developing the mandate. In his recommendations, the Secretary-General urges Member States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as well as the United Nations Convention against Transnational Organized Crime and the Protocols on trafficking and smuggling of migrants supplementing the Convention.

The Secretary-General also reports on the mandate of the Special Rapporteur on the human rights of migrants, her main activities and concerns. The Secretary-General encourages the new Special Rapporteur to continue working for the protection of the human rights of migrants, in particular women and children, to continue the programme of visits and to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.

* A/60/150.

05-46654 (E) 090905

Contents

		Paragraphs	*Page*
I.	Introduction	1	3
II.	Information from Governments	2–46	3
III.	Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	47	10
IV.	Activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants	48–52	11
V.	Conclusions and recommendations	53–63	12

I. Introd ction

1. In its resolution 59/194, the General Assembly requested the Secretary-General to submit a report to the Assembly at its sixtieth session on the implementation of the resolution. Accordingly, the Office of the United Nations High Commissioner for Human Rights (OHCHR), on 24 May 2005, transmitted a note verbale to Governments, on behalf of the Secretary-General, requesting information for inclusion in the present report.

II. Information from Governments

2. The Governments of the following countries replied to the note verbale: Azerbaijan, Croatia, El Salvador, Ireland, Kazakhstan, Lebanon, Lithuania, Mexico, Morocco, the Philippines and Ukraine.

3. The Government of Azerbaijan reported that the Constitution of Azerbaijan provides for unimpeded entry of foreign nationals to the territory of the State, freedom to choose one's residence, as well as exercise of the other human rights and freedoms equally with the citizens of Azerbaijan. The national legislation recognizes the right of foreign nationals to work and the use of all institutes of social protection equally with the citizens. The Government also reported that on 11 December 1998, the Republic of Azerbaijan adhered to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which creates the necessary conditions for the protection of migrants' rights in accordance with international practice.

4. The Government also reported that at present, there are no obstacles in the national legislation preventing reunification of migrant workers with their families. There are no obstacles preventing the transfer of earnings of migrants to their country of origin or to any other country, and there exist appropriate conditions for such transfer. According to the legislation in force, a working migrant is exempt from paying customs duties on tools necessary for his/her work, as well as on other belongings or home appliances acquired at the migrant's expense upon entry to the State and upon leaving the State after the completion of work.

5. The Government reported that relevant structures of the Ministry of Labour and Social Protection of the Population provide for comprehensive information on the legal search for work abroad, emigration, legislation on migration in those countries, living and working conditions, as well as the consequences of illegal migration. The Republic of Azerbaijan signed a number of agreements in the sphere of migration within the framework of the Commonwealth of Independent States (CIS), as well as bilaterally with Ukraine, Turkey, Kazakhstan, Kyrgyzstan and the Republic of Moldova. This year, a state commission developed and submitted for the consideration of the Cabinet of Ministers a draft State Migration Programme aimed at the regulation of migration processes in accordance with international standards, protection of the rights and freedoms of migrants, as well as improvement of the State machinery and legislation in this sphere.

6. The Government of Croatia reported that a number of provisions of its domestic legislation protected all persons from discrimination. The Government also reported that 58 conventions of the International Labour Organization (ILO) had been ratified and the reports on their implementation are regularly submitted.

7. The Government provided details of the rights ensured by the Aliens Act in effect since 1 January 2004, which regulates the stay, movement and work of foreign nationals in the country. Non-Croatian nationals can work in the country on the basis of work or business permits. Aliens legally employed in the country enjoy the same rights as Croatian citizens, except the right to vote. Details on the procedure and conditions for applying for a work permit were provided, as well as statistics on the number of work permits granted to foreigners between 2000 and 2004.

8. The Government also reported that the Labour Act prohibits direct or indirect discrimination against job seekers and that, when an employee complains of discrimination, the burden of proof of non-discrimination rests with the employer. Finally, the Government reported on social security benefits for which foreign employees and Croatian nationals living abroad are eligible, as well as the applicable legislation.

9. The Government of El Salvador reported that its domestic legislation prohibits discrimination at different levels.

10. The Government reported on its recent ratification of international instruments including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in March 2003, and the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in December of 2003. El Salvador has also ratified, among others, the ILO Discrimination (Employment and Occupation), 1958 (Convention No. 111) and the Ministry of Labour will carry out a study with a view to promoting ratification of the Migrant Workers (Supplementary Provisions) Convention, 1975 (Convention No. 143).

11. Information was also provided regarding activities of a number of Government organs and offices in the protection of migrant workers, including initiatives taken with a view to facilitating visa procedures for foreigners and migrant workers in the country and to putting an end to arbitrary detention of migrants. The Government also reported on the draft Law on Migration and Foreigners (*Proyecto de Ley de Migración y Extranjeria*) which would take into account the provisions of the recently ratified International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

12. Information was provided on actions adopted and existing legislation regarding the trafficking and smuggling of persons.

13. The Government also reported on the mission, objectives and recent activities of the Vice-Ministry for External Affairs for Salvadorians Living Abroad (Viceministerio de Relaciones Exteriores para los Salvadoreños en el Exterior). Finally, information was provided regarding regional agreements for migration management.

14. The Government of Ireland referred to information submitted to the Committee on the Elimination of Racial Discrimination in its second periodic report (CERD/C/460/Add.1). In that report the Government provided information on its strategy against poverty and exclusion, which specifically sets out to address their impact upon migrants and ethnic minorities.

15. The Government reported on a range of existing initiatives to promote anti-racism and interculturalism in the education sector and to support the participation in education of non-nationals. They include: (i) the development of guidelines for teachers on how the curriculum can be adapted to reflect the emergence of a multicultural society; and (ii) funding for a support programme for teachers to enable them to develop immigrant children's English language skills and for materials and staff development for adult tutors meeting the literacy and language needs of adults.

16. Finally, the Government reported on campaigns that have been organized jointly with members of civil society against racism, and to raise awareness of the situation of migrant workers.

17. The Government of Kazakhstan reported that owing to its large territory, plentiful natural resources but low population density, the issue of population increase is a matter of the Republic's national security. The collapse of the former Soviet Union, economic decline in the 1990s and subsequent economic growth in Kazakhstan prompted active migration processes on its territory. State migration policy is based on the Constitution, the 1951 Convention relating to the Status of Refugees and the Protocol thereto of 1967 (Law of the Republic of Kazakhstan on adhesion No. 317-I of 15 December 1998) and the Law of the Republic of Kazakhstan "On migration of population" adopted on 13 December 1997. There are more than 200 documents related to the regulation of migration in the legislation of the Republic. The Government attached a list of the international treaties to which the State is a party, and of the laws and by-laws related to the issue of migration.

18. The Government also reported that the Law "On migration of population" consolidated the main principles of the Universal Declaration of Human Rights such as non-discrimination. A number of documents had been adopted on the provision and protection of migrants' rights, including the Concept of the Migration Policy of the Republic of Kazakhstan of 5 September 2000 and the Departmental Programme of the Migration Policy of the Republic of Kazakhstan for 2001-2010 of 29 October 2001. The Programme had been developed by the Agency on Migration and Demography with the support of the office of the International Organization for Migration (IOM) in Kazakhstan.

19. The Government reported that as of 1 January 2005, 646 foreign nationals had been granted refugee status and were residing in the Republic, and it has planned to adopt a specialized law on refugees next year. The status of asylum-seekers was being defined in accordance with an Instruction on Work with Persons who Applied for Refugee Status and Procedure for the Determination of Refugee Status in the Republic of Kazakhstan registered by the Ministry of Justice on 15 June 1998 (document No. 519).

20. Furthermore, the Republic of Kazakhstan is actively cooperating with CIS and other countries through bilateral and multilateral agreements in the sphere of migrants' protection.

21. According to the Government, the main focus of the immigration policy is to increase acceptance of *oralman*,* facilitation of their settlement and integration into

* Foreign nationals or stateless persons of Kazakh ethnicity permanently residing outside of the Republic of Kazakhstan at the time of its independence and arriving in the Republic of Kazakhstan with the aim of residing there permanently.

society by the adoption of legislation and economic and social programmes. The Government further provided a list of benefits to which the *oralman* are entitled, as well as a list of additional benefits and compensations for *oralman* who arrived under the immigration quota. As of 1 January 2005, 374,000 ethnic Kazakhs had returned to the Republic of Kazakhstan since independence and their number is steadily increasing, many times exceeding the Government quota for the immigration of *oralman*. Statistics provided indicated that 298,145 people had moved to the Republic of Kazakhstan and been granted citizenship and 23,335 cases were currently being considered by the Ministry of the Interior. Regarding the others, 466 *oralman* who do not want to become citizens of the Republic of Kazakhstan for different reasons, 48 per cent of the families that had arrived in the country were provided with housing and 25 per cent were self-sufficient. As of 1 January 2005, the population of the Republic of Kazakhstan had increased to 15,074,200 people.

22. The Government of Lebanon reported that Lebanon is in line with the Universal Declaration of Human Rights and therefore follows a strategy of protection for legal and illegal migrants according to following points:

(a) On 9 September 2003, the Directorate-General of General Security signed a memorandum of understanding in Beirut with the Regional Office of the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the processing of cases of asylum-seekers applying for refugees status. This memorandum provides for the repatriation of the temporary migrants to a third country within nine months of the date of the arrival in the country;

(b) On 11 March 2002, the General-Directorate of General Security, Caritas Lebanon-Migrants Centre and the International Catholic Migration Committee, signed a memorandum of understanding in Beirut in order to assist the Government to return illegal migrants to their country of origin;

(c) There is a (non-written) agreement between the Directorate-General of General Security and Caritas Lebanon to give psychological, medical and other assistance to the detainees in the holding centre of the Directorate. On 12 January 2005, a memorandum of understanding was signed between the Directorate and Caritas to establish the House of Aman, aiming at providing temporary shelter to victims of abuse (trafficking) and essential equipments;

(d) The Directorate implements effective administrative and judicial procedures to avoid any ill-treatment in any exceptional circumstances, and recognizes torture as a crime according to the Lebanese Criminal Code. Training sessions for law enforcement personnel take into consideration human rights issues, mainly combating torture in holding centres and prisons;

(e) The Directorate collaborates with different foreign embassies in Lebanon to exchange information concerning trafficking in Lebanon and abroad. Follow-up is ensured by the judicial authorities;

(f) There is ongoing cooperation with non-governmental organizations (NGOs) for training sessions in the domain of trafficking;

(g) The Directorate implements the instruments concerning migrants ratified by Lebanon;

(h) According to the new Criminal Procedure Code of 2001, police custody was reduced to 48 hours, subject to renewal only once if approved by the Prosecutor General;

(i) The Lebanese Code of 1962 deals with illegal migration issues and ways of dealing with illegal migrants.

23. The Government of Lithuania reported that the flow of migrants has increased slightly during the past 10 years and that the Republic of Lithuania is both a transit and a destination country. A number of laws have been passed and several international human rights instruments ratified in order to ensure the protection of the human rights of all persons, including migrants. The instruments ratified include the United Nations Convention against Transnational Organized Crime on 10 March 2002, and the Protocol against the Smuggling of Migrants by Land, Sea and Air on 25 March 2003, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, on 22 April 2003.

24. The Government also reported that Lithuanian legislation, in general, guarantees the equality of all persons before the law and provides persons with the opportunity to complain of discriminatory treatment. An effort is made to amend laws that do not fully comply with the obligation of non-discrimination, as was the case with the Law on State-Guaranteed Legal Aid (N° VIII-1591), which has now been reviewed.

25. The legal status of aliens is regulated by the Constitution of the Republic of Lithuania, the Law on the Legal Status of Aliens and other laws and treaties. The Law on the Legal Status of Aliens, passed in April 2004, harmonizes its provisions with the 1951 Convention relating to the Status of Refugees. The Law provides that aliens can be issued temporary or permanent visas. The Law also guarantees in its article 3 (2) the equality of aliens before the law and in its article 30 the right to family reunification in cases of aliens who have been lawfully residing in the country for at least two years.

26. Regarding the right to housing, the Government reported that non-citizens can apply for support from the State under the Law on State Support to Acquire or Rent Housing (N° IX-1188 of 12 November 2002). Aliens legally in the country also have access to health care in accordance with the Law on Health Insurance (N° I-1343 of 21 May 1996) and those who have permanent residence permits to social security services.

27. Finally, the Government provided information regarding asylum-seekers and its programme for the social integration of aliens who have been granted asylum implemented by the Ministry of Social Security; the right of aliens to work under the Labour Code and Order No. A1-179 of the Ministry of Social Security and Labour of 16 July 2004, which approved the Conditions and Order of Issue of Work Permit to Aliens; the situation of migrant children; action taken to combat trafficking in human beings, which is carried out through the Programme on the Control and Prevention of Trafficking in Humans and Prostitution, among others; and the training provided to police and border control officers which includes an analysis of laws and international law reinforcing the prohibition against racial discrimination and other forms of discrimination.

28. The Government of Mexico reported on a number of actions taken by the National Institute for Migration (INM) in support of the International Convention on

the Protection of the Rights of All Migrant Workers and Members of Their Families. Such events included: the dissemination of an information leaflet regarding the Convention among the migrant population and the public officials who collaborate with the INM; the organization of a workshop on the Convention which took place on 16 June 2004; the drafting of a first draft report to be submitted to the Committee on Migrant Workers and which has been distributed to members of civil society; the establishment of a technical working group together with the Secretariat for Foreign Affairs (Secretaría de Relaciones Exteriores) with the objective of harmonizing domestic law with the provisions of the Convention.

29. INM regularly organizes technical training courses for officials and administrative personnel working with it on the protection of the human rights of migrants and their families. During 2004, a number of awareness-raising and promotion events were organized, including training workshops on trafficking in women.

30. The Government also reported on the activities of the Beta Groups (*Grupos Beta*), created in 1990 under INM for the protection of migrants. There are now 11 such groups in the northern border region and four in the southern border region. In 2004, 3,000 migrants were rescued through these groups. Since October 2003 the Beta Groups have been undergoing a process of restructuring and new control mechanism to address complaints of violations of the rights of migrants have been set up.

31. Campaigns against the abuse of undocumented migrants have been carried out through a number of different actions in the media and the distribution of documentation. The Government also provided detailed information on action taken for the protection of women migrants and unaccompanied children.

32. INM cooperated with other governmental bodies, members of civil society, international bodies and other countries in order to provide assistance and protection to migrants. Detailed information on the strategies adopted by the Secretariat for Labor and Social Security (Secretaría del Trabajo y Previsión Social) in order to respond to migrant workers' needs was also provided.

33. The Government reported on the activities of the Secretariat of Public Security (Secretaría de Seguridad Pública), the National Commission for Human Rights (Comisión Nacional de Derechos Humanos), and the Institute for Mexicans Living Abroad of the Secretariat of External Relations (Secretaría de Relaciones Exteriores-Instituto de los Mexicanos en el Exterior).

34. Finally, the Government reported on the dialogue between Mexico and the United States of America, providing information: on meetings and discussions held between the Heads of State of the two countries; the attention given by the Government to the protection of and assistance to Mexicans living abroad; the "smart border" declaration and action plan which originated in the 2002 "Monterrey Commitments"; the 2004 Cooperation and Action Plan on Border Security; the Guide for Mexican Migrants; the 2004 Memorandum of Understanding for a Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals; the pilot programme for voluntary repatriation set up in 2004; the programme for the voluntary repatriation to the interior set up in 2005 to assist persons considered to be at risk such as the elderly, the disabled and minors; the initiative "A society for

prosperity"; action taken by the Governments of Mexico and the United States, in particular with actors from the private sector on the question of remittances.

35. The Government of Morocco reported that Morocco has ratified most of the international human rights instruments. The Government has also promulgated a new code, No. 03-02, regulating the entry of foreigners to Morocco, their residence, as well as illegal immigration. This code deals with the conditions of entry and residence and stipulates the legal procedures aimed at combating illegal immigration. Article 26 of the code forbids the expulsion of pregnant women and minors. Article 29 forbids the expulsion of any foreigner to another country where there is a risk that his/her life or liberty would be endangered or threatened or that he/she would be subjected to torture or inhuman or degrading treatment. The code requires the administrative authorities to justify the decisions to refuse entry onto Moroccan soil, and gives migrants the right to appeal those decisions (art. 22).

36. The Government also reported that in the light of these legislative mechanisms and of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which Morocco ratified in 1993, several control organs have been established to follow up any violation of the mentioned rights in accordance with the rule of law and the respect for migrants' dignity and rights. The Consultative Council for Human Rights and the Petition Council (Diwan Al Mazalem) were established. NGOs and activists are working and operating in the domain of human rights, in a free and open environment, to confront any violation of the law.

37. Finally, the Government reported that Morocco favours strengthening the mechanism of the International Convention as well as the Durban Declaration and Programme of Action. It has established a centre for migrants' rights to combat xenophobia and all forms of racism and intolerance and to provide all kinds of assistance and legal advice. The Hassan II Foundation works hard to assist migrants and to receive their petitions and complaints. Morocco is also organizing training sessions for judges to strengthen national protection for migrants' rights and attention to migrants' issues.

38. The Government of the Philippines reported that with over 7 million Filipino migrant workers working abroad in over 130 countries, it is very important for the country to keep track of nationals who have been arrested, detained or imprisoned. However, unless the receiving States notify consular or labour officials, this is sometimes difficult. A biannual report is submitted by the Department of Labour and Employment (DOLE) to the Congress containing information on such cases.

39. The Government further reported that the Philippines Overseas Employment Administration (POEA) has recorded cases of Filipino workers abused by immigration authorities abroad and has recommended to the Secretary of Labour and Employment the suspension of migration to countries where migrant workers are not protected and where the host Government does not exert efforts to improve the conditions of migrants.

40. The legislature has enacted Republic Act 8042 (1995), known as the Migrant Workers and Overseas Filipinos Act, and Republic Act 9208 (2003) on Trafficking in Persons.

41. The Government provided information on activities carried out in cooperation with NGOs aimed at the protection of migrants, including conducting pre-employment and pre-departure orientation seminars.

42. DOLE also carries out activities in support of families of overseas Filipino workers, including livelihood assistance for entrepreneurship, training and educational programmes. Migrants are encouraged to keep in touch with their families as often as possible.

43. Finally, the Government reports that it observes 7 June as National Migrant Workers Day.

44. The Government of Ukraine reported that article 33 of the Constitution spells out the right to liberty of movement, freedom to choose one's residence and a right to leave the territory of Ukraine. Article 26 extends rights and duties applicable to citizens of Ukraine to foreign nationals and stateless persons lawfully within the territory of Ukraine, except for those stipulated by the Constitution, laws, or international treaties to which Ukraine is a party. Foreign nationals and stateless persons can be granted asylum as established by the legislation.

45. The Government also reported that the Cabinet of Ministers approved on 20 August 2003 a Programme of Regulation of Migration Processes for 2003-2005 (document No. 1296) aimed at: (i) the finalization of legislation in the sphere of migration; (ii) the protection of the rights of persons granted refugee status in Ukraine; (iii) facilitating the repatriation of Ukranians by birth and their descendants; (iv) establishment of legal, social and economic foundations for the regulation of labour migration; (v) development of international cooperation in the sphere of migration. A Plan of Action on the facilitation of the integration of persons granted refugee status and their employment has been elaborated.

46. Finally, the Government reported that agreements on the regulation of the process of repatriation and protection of repatriates' rights were signed between Ukraine and Belarus and Turkmenistan; a similar agreement with the Russian Federation was drafted and is in the process of discussion. Ukraine has adhered to the United Nations Convention against Transnational Organized Crime and its supplementary protocols. In 2002, the Ukranian Verkhovna Rada ratified an agreement on membership in the IOM. A Law of Ukraine on the acceptance of the IOM Constitution and amendments thereto was adopted on 11 July 2002 (document No. 114-1Y).

III. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

47. The International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families entered into force on 1 July 2003. As of 1 August 2005, 30 States had ratified the Convention: Algeria, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Kyrgyzstan, Libyan Arab Jamahiriya, Mali, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Syrian Arab Republic, Tajikistan, Timor-Leste, Turkey, Uganda and Uruguay. The entry into force of the Convention assists in securing a protective mechanism for the

human rights of migrants, including those in an irregular situation. All Member States that have not yet become a party to the Convention are urged to consider acceding to this instrument promptly. The 10 members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Committee on Migrant Workers) monitor the compliance of States parties with the provisions of the Convention. At its second session, held in Geneva from 18 to 29 April 2005, the Committee adopted reporting guidelines for the presentation of initial reports by States parties. All States parties whose reports are due are urged to submit them to the Committee as soon as possible.

IV. Activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants

48. In its resolution 59/194, the General Assembly took note with appreciation of the interim report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants (E/CN.4/2004/76 and Add.1-4) and the conclusions and recommendations contained therein, and requested the Special Rapporteur to submit to the Assembly at its sixtieth session an interim report on the fulfilment of her mandate.

49. During the period under review, from 17 to 21 January 2005 the Special Rapporteur attended a working meeting in Mexico organized by INM to review action taken by INM on the recommendations contained in the report on her visit to Mexico (E/CN.4/2003/85/Add.2). This was a follow-up to her mission to Mexico and considered by the Special Rapporteur to be an example of best practices. The Special Rapporteur also carried out an official visit to Burkina Faso, which took place from 2 to 9 February 2005. During the sixty-first session of the Commission on Human Rights, the Special Rapporteur presented reports on visits to the Islamic Republic of Iran, Italy and Peru (E/CN.4/2005/85/Add.2-4). The Special Rapporteur's main report to the Commission (E/CN.4/2005/85) contained a review of progress made in the protection of the human rights of migrants since the creation of the mandate in 1999, highlighting current and future challenges. She presented as well an addendum to the main report summarizing communications to and from Governments (E/CN.4/2005/85/Add.1).

50. Additionally, the Special Rapporteur participated in numerous meetings and events related to her mandate.

51. In the performance of her mandate, the Special Rapporteur has paid particular attention to the situation of female migrants and children, especially unaccompanied children. The Special Rapporteur also continued to maintain a dialogue with Governments on the situation of migrants.

52. In July 2005, Gabriela Rodríguez Pizarro concluded her mandate as Special Rapporteur on the human rights of migrants, which she had held since its creation in 1999. On 29 July 2005, the Chairperson of the sixty-first session of the Commission on Human Rights appointed Jorge A. Bustamante to replace her.

V. Conclusions and recommendations

53. The Secretary-General welcomes the efforts made by several Member States to report on the measures they have adopted to protect migrants and encourages those that have not done so to provide him with such information.

54. The Secretary-General takes note of the measures adopted by several countries to ensure that migrants are treated equally before the law and to protect their citizens who have migrated abroad.

55. The Secretary-General is particularly encouraged by the increasing number of bilateral, regional and international consultations on migration, including the question of the protection of migrants.

56. The Secretary-General is also encouraged by the efforts of those States that have provided extensive reports detailing how their legislation is being enforced and the measures that are being undertaken to strengthen the protection of migrants. It is recommended that in future responses States include information on good practices, as well as obstacles, with respect to the protection of migrants. The Secretary-General invites States that have not yet done so to provide information on legislative and other measures they are implementing to protect migrants.

57. The Secretary-General expresses his appreciation to Gabriela Rodríguez Pizarro for the important work she has carried out in the establishment and development of the mandate of Special Rapporteur on the human rights of migrants. During her tenure, Ms. Rodríguez carried out 11 visits to countries in all the regions of the world, looking at countries of origin, destination and transit of migration. She has played an important role in moving forward the debate on migration and human rights and in giving content to the conceptual framework of the human rights approach to migration.

58. The Secretary-General welcomes the appointment of Jorge A. Bustamante to the post of Special Rapporteur and encourages him to engage in a dialogue with Member States, to continue the work for the protection of the human rights of migrants, in particular women and children, and to continue to develop a programme of visits. The Secretary-General also encourages him to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.

59. The Secretary-General welcomes the work of the Committee on Migrant Workers, which will monitor the compliance of States parties with the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and urges Member States that have not done so to adhere to this instrument. The Secretary-General encourages States to make the declarations under articles 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider inter-State or individual complaints. The Secretary-General urges States parties to submit their initial report on the measures taken to give effect to the provisions of the Convention.

60. The Secretary-General requests Member States that have not done so to consider ratifying the United Nations Convention against Transnational Organized Crime and its Supplementary Protocols.

61. **The Secretary-General encourages Member States to take into consideration the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1) issued by the High Commissioner for Human Rights in July 2002.**

62. **The Secretary-General is encouraged by the increased dialogue and cooperation between the United Nations and other bodies and organizations in the field of migration and urges them to continue along this path. The Secretary-General encourages increased dialogue and cooperation between States.**

63. **The Secretary-General encourages States to implement their national plans of action, in particular those aspects relating to migrants, in their follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.**

United Nations A/60/273

General Assembly

Distr.: General
19 August 2005

Original: English

Sixtieth session
Item 73 (a) of the provisional agenda*
Human rights questions: implementation of human rights instruments

Status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

Report of the Secretary-General

Summary

The present report on the financial status and activities of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery contains the recommendations adopted by the Board of Trustees of the Fund at its tenth session, held in Geneva from 7 to 11 March 2005, which were approved by the United Nations High Commissioner for Human Rights on behalf of the Secretary-General on 16 March 2005. The present report updates the report of the Secretary-General submitted to the Commission on Human Rights at its sixty-first session (E/CN.4/2005/86 and Add.1), as well as the report of the Secretary-General to the General Assembly at its fifty-ninth session (A/59/309).

* A/60/150.

05-46660 (E) 090905

Contents

		Paragraphs	Page
I.	Mandate of the Fund	1	3
II.	Administration and Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery	2–3	3
III.	Beneficiaries	4	3
IV.	Grant cycle	5–10	4
V.	Payment of contributions	11	5
VI.	Tenth session of the Board of Trustees	12	5
VII.	Approval and implementation of recommendations	13–14	6
VIII.	Thirtieth session of the Working Group on Contemporary Forms of Slavery	15–19	7
IX.	Needs assessment	20–21	8
X.	Fund-raising for the eleventh session of the Board of Trustees	22–24	8
XI.	How to contribute to the Fund	25–26	8
XII.	Recommendations	27	9
Annexes			
I.	Criteria and other requirements for the selection of beneficiaries		10
II.	Contributions and pledges available for the tenth and eleventh sessions of the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery		12
III.	Geographical distribution of travel and project grants		14
IV.	Travel grants for attendance at the thirtieth session of the Working Group on Contemporary Forms of Slavery and project grants approved by the Board of Trustees at its tenth session		16

I. Mandate of the Fund

1. In its resolution 46/122 of 17 December 1991, the General Assembly established the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, which receives voluntary contributions from Governments, non-governmental organizations (NGOs), other private and public entities and individuals. The purpose of the Fund is to provide financial assistance to representatives of NGOs from different regions that deal with issues related to contemporary forms of slavery so they may participate in the deliberations of the Working Group on Contemporary Forms of Slavery and to extend humanitarian, legal and financial aid, through established channels of assistance, to individuals whose human rights have been severely violated as a result of contemporary forms of slavery.

II. Administration and Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

2. Pursuant to General Assembly resolution 46/122, the Fund is administered by the Secretary-General, through the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with the relevant financial regulations and rules of the United Nations on general trust funds for humanitarian assistance and with the advice of a Board of Trustees.

3. The Board of Trustees is composed of five experts with relevant experience in the field of human rights and, in particular, with issues of contemporary forms of slavery, serving in their personal capacities. The current members of the Board of Trustees, appointed by the Secretary-General for a three-year renewable term, in consultation with the Chairperson of the Sub-commission on the Promotion and Protection of Human Rights, with due regard to equitable geographical distribution, are José de Souza Martins (Brazil), Prateep Unsongtham Hata (Thailand), Cheikh Saad-Bouh Kamara (Chairperson, Mauritania), Gulnara Shahinian (Armenia), and David Weissbrodt (United States of America).

III. Beneficiaries

4. In accordance with the selection criteria adopted by the General Assembly in its resolution 46/122, the beneficiaries of assistance from the Fund shall be: (a) representatives of NGOs dealing with issues of contemporary forms of slavery who would not, in the opinion of the Board of Trustees, be able to attend the session of the Working Group without the assistance provided by the Fund and who would be able to contribute to a deeper knowledge on the part of the Working Group of the problems relating to contemporary forms of slavery; and (b) individuals whose human rights have been severely violated as a result of contemporary forms of slavery (see annex I).

IV. Grant cycle

5. Applications for travel or project grants for 2006 must be submitted by 15 September 2005 for analysis by the secretariat of the Fund and Board of Trustees. Admissible applications will be examined by the Board of Trustees at its next session, scheduled to be held from 30 January to 3 February 2006. At that session, the Board of Trustees will adopt recommendations for grants, which will then be submitted for approval to the High Commissioner for Human Rights on behalf of the Secretary-General. The grants approved should be paid in February/March 2006. Beneficiaries of project grants will then have to provide satisfactory narrative and financial reports on the use of their grants before 1 November 2006. Until satisfactory reports on the use of previous grants are received, no new project grant can be paid.

6. Admissibility of new applications: during the period between the receipt of the application and the next session of the Board of Trustees, the secretariat of the Fund decides on the admissibility of applications on the basis of the mandate of the Fund.

7. Selection process: admissible application forms are verified as to their conformity with approved selection criteria and additional information is requested from the organization if necessary. Reference organizations and specialized networks are consulted as well if necessary. The complete application form is then summarized and analysed by the secretariat in accordance with the selection criteria, to facilitate the work of the Board of Trustees. At its annual session, the Board of Trustees reviews all applications declared admissible, including the original application form, the summary analysis prepared by the secretariat and any other relevant information. The Board of Trustees then makes recommendations to the Secretary-General in accordance with the guidelines of the Fund and Board. Following the session the secretariat reviews all the recommendations of the Board of Trustees for consistency with relevant United Nations administrative and financial rules and regulations. The High Commissioner for Human Rights approves, on behalf of the Secretary-General, the recommendations that are acceptable, along with any new best practices identified during the annual session.

8. Payment of grants: the beneficiary organizations are requested to approve all conditions attached to the grant, such as providing narrative and financial reports on the use of grants by a given deadline. Upon receipt of this confirmation, the secretariat of the Fund requests the financial services of the United Nations Office at Geneva to pay the project grant promptly. In the case of travel grants, the beneficiary receives an aeroplane ticket from his or her local travel agency and then a daily subsistence allowance (DSA) in the form of a cheque upon arrival at the session of the Working Group.

9. Monitoring: the secretariat reviews all narrative and financial reports received from beneficiary organizations on the use of project grants and asks for additional information if needed. OHCHR field presences and other United Nations field offices such as those of the United Nations Development Programme (UNDP) may be requested to provide to the secretariat of the Fund additional information on the organization or project. Travel grants are closely monitored before and during the session of the Working Group. Beneficiaries are requested to provide a copy of any statement they make during the session as part of their reporting obligation.

10. Evaluation by the Board of Trustees and secretariat: in performing their evaluation, the Board and the secretariat carry out the following activities:

(a) At its annual session the Board of Trustees reviews the situation of all travel and project grants allocated in previous years. When the Board is satisfied with the reporting by a given organization, it recommends closing the file. If the report is not complete the Board makes a recommendation requesting specific additional information. No new grants will be allocated to that organization until the Board is satisfied with its report;

(b) Board members may visit projects financed by the Fund within their geographic region; the secretariat of the Fund may also visit projects;

(c) Board members, who are respected United Nations experts in the field of contemporary forms of slavery, may establish, if needed, direct contact with project leaders in the field, during sessions of the Board of Trustees, or at the sessions of the Working Group, the Commission on Human Rights and the Sub-commission on the Promotion and the Protection of Human Rights, in order to better evaluate the use of the grants. The secretariat also meets with project leaders;

(d) Reference organizations and specialized networks may be invited to the session of the Board of Trustees at which their applications are examined in order, inter alia, to provide additional information on specific organizations or projects, answer questions and explain their activities to the Board;

(e) Concerning travel grants, the Chairman, or another Board member if possible, attends the Working Group session in order to meet with all beneficiaries present and assess the impact of their participation on the deliberations of the Working Group.

V. Payment of contributions

11. In order to meet the requirements of the grant cycle and meet new requests for funding, new voluntary contributions should be paid to the Fund by the end of 2005 so that they can be duly recorded by the United Nations Treasurer well in advance of the next session of the Board of Trustees. Contributions that cannot be recorded before the next session of the Board will be considered at the following session.

VI. Tenth session of the Board of Trustees

12. During the 10 meetings of its tenth session (7-11 March 2005), the Board of Trustees examined information prepared by its secretariat concerning previous grants paid from 2000 to 2004, applications for new travel and project grants, the financial situation of the Fund, including new contributions and pledges (see annex II, sect. A and B), and the implementation of the recommendations approved in 2004. The Board met with representatives of donor and other interested Governments, staff members of OHCHR working on other activities relevant to the mandate of the Fund, and representatives of other United Nations agencies. Detailed information can be found in the report of the tenth session of the Board of Trustees to the thirtieth session of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/AC.2/2005/5 and Corr.1).

VII. Approval and implementation of recommendations

13. All of the recommendations made by the Board of Trustees at its tenth session were approved on 16 March 2005 by the High Commissioner for Human Rights on behalf of the Secretary-General. All seven of the beneficiaries attended the thirtieth session of the Working Group (6-10 June 2005). All 25 project grants were paid either the full amount of the grant, or the first instalment of the grant, by 3 June 2005.

14. The Board of Trustees noted with satisfaction that, thanks to new contributions from previous and new donors, appeals by the High Commissioner, the Board and Fund secretariat and recommendations of the Sub-Commission on the Promotion and Protection of Human Rights and the Working Group, it had been able to recommend 25 new grants in 2005. The relevant statistics since the Board started allocating grants in 1997, including the number of travel and project applications received and the amount of money requested, as well as the number of grants received and the amount of money allocated by the Fund, are shown in the following table.

Statistics on the allocation of travel and project grants, 1997-2005

Year	*Type of grant*	*Number of admissible applications*[a]	*Amount requested (in United States dollars)*	*Number of grants approved*	*Amount allocated (in United States dollars)*
1997					
	Travel	—	—	6	13 600
	Project			3	10 250
1998[b]		—	—	—	—
1999					
	Travel	10	100 000	10	13 505
	Project	23	800 000	5	27 000
2000					
	Travel	43	113 059	17	30 800
	Project	25	552 236	17	83 500
2001					
	Travel	33	73 000	13	25 715
	Project	23	330 000	18	148 700
2002					
	Travel	39	80 000	7	14 046
	Project	39	600 000	21	121 000
2003					
	Travel	37	85 800	8	21 995
	Project	55	743 990	28	130 920

Year	Type of grant	Number of admissible applications[a]	Amount requested (in United States dollars)	Number of grants approved	Amount allocated (in United States dollars)
2004					
	Travel	25	130 375	9	29 555
	Project	43	553 275	20	150 700
2005					
	Travel	12	25 292	7	14 800
	Project	63	696 057	25	215 330

[a] Every year about 50 applications are received that are not admissible, as they do not fall within the mandate of the Fund, arrive after the established deadline or are incomplete.

[b] The total amount available for grants was paid in 1997 (US$ 23,850), and no new contributions were paid.

VIII. Thirtieth session of the Working Group on Contemporary Forms of Slavery[1]

15. At its thirtieth session, the Working Group on Contemporary Forms of Slavery had before it the report of the Secretary-General to the Commission on Human Rights on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (E/CN.4/2005/86 and Add.1), as well as the report of the tenth session of the Board of Trustees of the Fund to the thirtieth session of the Working Group (E/CN.4/Sub.2/AC.2/2005/5 and Corr.1).

16. A member of the Board of Trustees, David Weissbrodt, attended the session and introduced the documentation available and the beneficiaries of travel grants attending the session, and described the financial situation of the Fund.

17. The Working Group emphasized the valuable information and deeply moving testimonies presented at its sessions by NGOs and victims of various forms of slavery and slavery-like practices, some of whom were enabled to attend the session with the assistance of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. It recommended that the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery should continue its close cooperation with the Working Group, in particular with regard to the assistance provided for the participation in its sessions of grass-roots organizations and victims of forms of slavery.

18. The Working Group invited the Board of Trustees to continue to contribute to projects implemented at the grass-roots level that directly assist victims of contemporary forms of slavery and to promote the participation at the annual sessions of the Working Group of individuals and organizations from as large a number of countries as possible, taking into account the thematic focus of each session.

19. The Working Group expressed its gratitude to all those who contributed to the Fund and strongly encouraged them to continue doing so. The Working Group appealed to Governments to respond favourably to requests for contributions to the Fund, urging Governments, NGOs and individuals to contribute to the Fund, if

possible by September 2005 in order to enable the Fund to fulfil its mandate effectively in 2006.

IX. Needs assessment

20. Applications for grants amounting to approximately US$ 721,349 were received in 2005. The Board of Trustees was able to recommend only about US$ 230,130. In the view of the Board, in order to be able to fulfil its mandate and to satisfy the new applications envisaged for 2006, the Fund would need new contributions amounting to at least US$ 600,500 prior to the eleventh session of the Board of Trustees,[2] to be held from 30 January to 3 February 2006.

21. Some new contributions and pledges have been made for the eleventh session of the Board of Trustees (see annex II, sects. B and C).

X. Fund-raising for the eleventh session of the Board of Trustees

22. The Board of Trustees adopted its revised cost plan for 2006 on the basis of the increase in new applications for grants and the increase in new contributions received in 2004 and 2005.

23. During its tenth session, the Board of Trustees held its annual meeting with regular and new donor Governments and other interested Governments (see E/CN.4/Sub.2/AC.2/2005/5 and Corr.1, paras. 31 and 32).

24. The Board of Trustees recommended that the secretariat of the Commission on Human Rights continue to invite the Bureau to request the Chairperson or another member of the Board to deliver a brief speech to the Commission for the purpose of introducing the report of the Secretary-General on the Fund, providing the Commission with updated information on its work and the financial situation of the Fund and inviting donors to contribute to the Fund.

XI. How to contribute to the Fund

25. Governments, NGOs and other private or public entities can contribute to the Fund.

26. Information on how to contribute can be obtained from the secretariat at:

United Nations Voluntary Trust Fund on Contemporary Forms of Slavery
Office of the United Nations High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10
Switzerland

Telephone: + (41) (22) 917 93 81
+ (41) (22) 917 93 14

Facsimile: + (41) (22) 917 90 66

e-mail: slaveryfund@ohchr.org

XII. Recommendations

27. **In the view of the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, in order to be able to satisfy a sufficient number of the new applications envisaged for 2006 and to fulfil its mandate satisfactorily, the Fund would need at least an additional US$ 600,500 prior to the start of the eleventh session of the Board, scheduled to be held at the end of January 2006. As recommended by the Board of Trustees at its tenth session and approved by the United Nations High Commissioner for Human Rights on behalf of the Secretary-General, donors are invited to contribute to the Fund by the end of the year in order that the contributions may be duly recorded by the United Nations Treasurer in advance of the annual session of the Board. Contributions that cannot be recorded before the session of the Board will be considered at its next annual session.**

Notes

[1] For the report of the thirtieth session of the Working Group on Contemporary Forms of Slavery, see E/CN.4/Sub.2/2005/34.

[2] According to the revised cost plan approved by the Board of Trustees.

Annex I

Criteria and other requirements for the selection of beneficiaries

A. Travel grants

1. According to the criteria established by the General Assembly in its resolution 46/122, grants from the Fund shall be given to:

(a) Representatives from non-governmental organizations (NGOs) from different regions dealing with issues of contemporary forms of slavery to assist them to participate in the deliberations of the Working Group on Contemporary Forms of Slavery:

(i) Who are so considered by the Board of Trustees;

(ii) Who would not, in the opinion of the Board, be able to attend the sessions of the Working Group on Contemporary Forms of Slavery without the assistance provided by the Fund;

(iii) Who would be able to contribute to a deeper knowledge on the part of the Working Group of the problems relating to contemporary forms of slavery;

(b) Individuals whose human rights have been severely violated as a result of contemporary forms of slavery.

2. In addition, the Board of Trustees has developed other practices and guidelines:

(a) Application forms for travel grants should include a letter of nomination and recommendation signed by an executive official of the applicant's organization other than the applicant himself or herself;

(b) The Board will take into consideration the main theme of the Working Group's session when making recommendations for travel grants;

(c) An NGO may apply for grants for a maximum of two representatives;

(d) In proposing candidates, the applicant NGO should take gender balance into consideration;

(e) The applicant must submit by airmail the original of the application duly signed and dated;

(f) Representatives should be selected from all the geographical regions in order to provide the widest possible view of contemporary forms of slavery in the world (see Sub-Commission on the Promotion and Protection of Human Rights resolution 2000/12);

(g) The organization should provide information on its legal status, year of foundation, annual budget, other sources of funding in relation to aspects of contemporary forms of slavery with which the organization deals and specific experience and/or expertise in the relevant issues to be discussed at the Working Group;

(h) The organization should provide information on the responsibilities of the applicant in the organization and on the theme of the applicant's presentation to the Working Group;

(i) Beneficiaries of a travel grant should deliver their statements on behalf of the organization that applied for the approved grant;

(j) The Board will not consider an application for which the secretariat has not received, at its request, additional satisfactory information after a second reminder.

B. Project grants

3. According to General Assembly resolution 46/122, grants from the Fund shall be given to extend, through established channels of assistance, humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of contemporary forms of slavery.

4. The Board of Trustees has developed the following practices and guidelines:

(a) An organization can request a maximum amount of US$ 15,000 per grant from the Fund;

(b) Projects should be selected from all the geographical regions in order to provide the widest possible view of contemporary forms of slavery in the world (see Sub-Commission on the Promotion and Protection of Human Rights resolution 2000/12);

(c) The project should take gender balance into consideration;

(d) The original application, duly signed and dated by an executive officer of the applying organization, should be sent by airmail;

(e) The organization should provide information on its present activities and the aspects of contemporary forms of slavery that it deals with;

(f) If satisfactory narrative and financial reports on the use of a previous grant have not been received, a new grant cannot be released and should be kept pending;

(g) Project grants should be allocated for direct assistance to victims and to local NGOs. As the case may be, grants may be channelled via an international NGO, provided that it does not retain any part of the grant for its activities;

(h) The Board will not consider an application for which the secretariat has not received, at its request, additional satisfactory information after a second reminder;

(i) If no satisfactory narrative and financial reports are received, the organization may be requested to refund the grant concerned.

Annex II

Contributions and pledges available for the tenth and eleventh sessions of the Board of Trustees of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

A. Contributions available for the tenth session[a]

Table 1
Contributions by States

State	*For the year*	*Amount (in United States dollars)*	*Date paid*	*Number of contributions*
Cyprus	2005	4 000.00	21 May 2004	4
France	2005	36 101.08	27 August 2004	6
Greece	2005	12 000.00	9 July 2004	1
Holy See	2005	1 500.00	22 December 2004	6
Netherlands	2005	232 095.49	8 December 2004	6
South Africa	2005	7 214.74	10 March 2004	5
United Arab Emirates	2005	29 961.00	25 March 2004	1
Venezuela (Bolivarian Republic of)	2005	10 000.00	3 November 2004	1
Total		**332 872.31**		

Table 2
Contributions by non-governmental organizations, other private or public entities and individuals

Entity or individual	*Amount (in United States dollars)*	*Date paid*	*Number of contributions*
Yorio Shiokawa	312.50	5 April 2004	9
	260.16	7 September 2004	10
Students and teachers at the Instituto Tecnico Commerciale Statale Oscar Romero	796.72	28 April 2004	11
Students and teachers of the Archway School	910.75	14 July 2004	4
Graham St. John-Willey (People's Fund for Children)	1 741.52	4 August 2004	1
Total	**4 021.65**		
Total tables 1+2	**336 893.96**		

[a] Based on information available at the Office of the United Nations High Commissioner for Human Rights.

B. Pledges made before the tenth session[a]

State	*Amount (in United States dollars)*	*Date pledged*
Venezuela (Bolivarian Republic of)	5 000	11 November 2004
Total	**5 000**	

[a] The pledge was made at the 2004 United Nations Pledging Conference on Development Activities in New York.

C. Contributions available for the eleventh session[a]

(as at 15 July 2005)

Table 1
Contributions by States

State	*For the year*	*Amount (in United States dollars)*	*Date paid*	*Number of contributions*
Chile	2006	1 000.00	13 June 2005	2
France	2006	64 683.05	29 April 2005	7
India	2006	5 000.00	2 June 2005	1
Total		**70 683.05**		

Table 2
Contributions by non-governmental organizations, other private or public entities and individuals

Entity or individual	*For the year*	*Amount (in United States dollars)*	*Date paid*	*Number of contributions*
Yorio Shiokawa	2006	416.67	28 April 2005	11
Instituto Tecnico Commerciale Statale Oscar Romero	2006	1 108.39	3 February 2005	12
	2006	544.42	26 April 2005	13
Subtotal (table 2)		**2 069.48**		
Total (tables 1 and 2)		**72 752.53**		

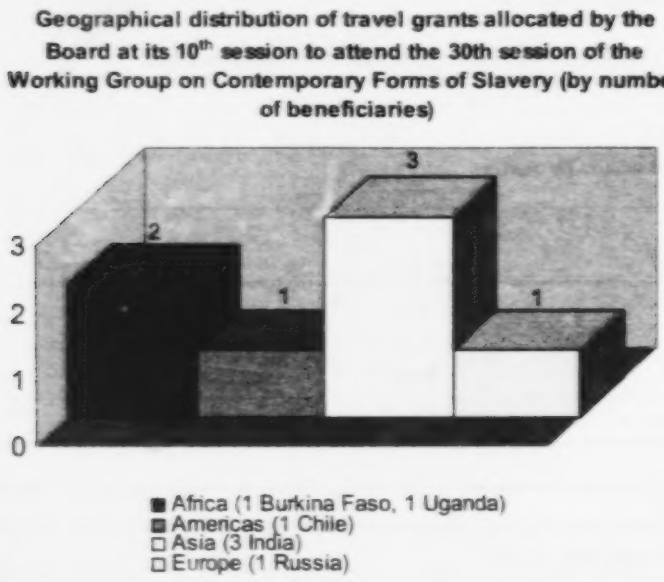
[a] Based on information available at the Office of the United Nations High Commissioner for Human Rights.

Annex III

Geographical distribution of travel and project grants

Chart 1

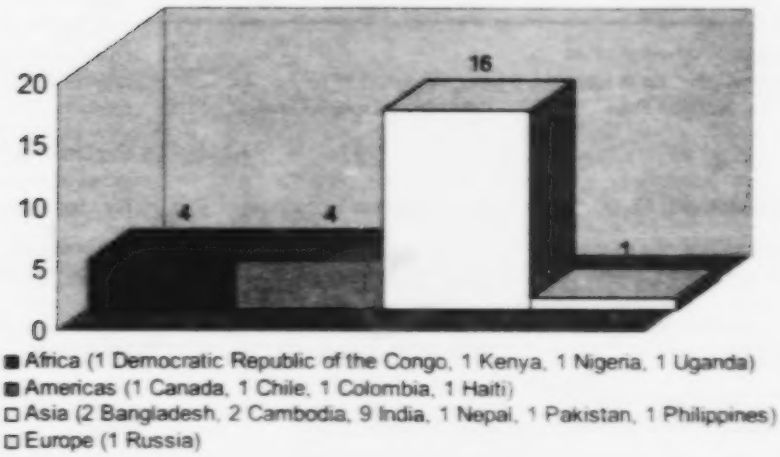
Geographical distribution of travel grants allocated by the Board of Trustees of the Fund at its tenth session to attend the thirtieth session of the Working Group on Contemporary Forms of Slavery, 6 to 10 June 2005


Geographical distribution of travel grants allocated by the Board at its 10th session to attend the 30th session of the Working Group on Contemporary Forms of Slavery (by number of beneficiaries)
3
2
1
0
2
1
3
1
Africa (1 Burkina Faso, 1 Uganda)
Americas (1 Chile)
Asia (3 India)
Europe (1 Russia)

Note: Total number of admissible requests for travel grants: 12; total amount of money requested: approximately US$ 25,292.

Chart 2

Geographical distribution of project grants allocated by the Board of Trustees of the Fund at its tenth session


Geographical distribution of project grants allocated by the Board at its tenth session
20
15
10
5
0
4
4
16
1
Africa (1 Democratic Republic of the Congo, 1 Kenya, 1 Nigeria, 1 Uganda)
Americas (1 Canada, 1 Chile, 1 Colombia, 1 Haiti)
Asia (2 Bangladesh, 2 Cambodia, 9 India, 1 Nepal, 1 Pakistan, 1 Philippines)
Europe (1 Russia)

Note: Total number of admissible requests for project grants: 63; total amount of money requested: approximately US$ 696,057.

Annex IV

Travel grants for attendance at the thirtieth session of the Working Group on Contemporary Forms of Slavery and project grants approved by the Board of Trustees at its tenth session

A. Travel grants

Organization and country	*Name of representative*	*Theme*
Groupe de recherche-Action pour un développement endogène de la femme rurale du Burkina, Burkina Faso	Bernadette Tipoko Ouedraogo[a] (f)	Domestic child workers and trafficking in children in Burkina Faso
Clubes Juveniles MOANI, Chile	Ruben Salazar Vargas (m)	Explotación laboral de niños y niñas en Concepción, Chile y las vías de erradicación
Arya Samaj For Bonded and Child Labour Front, India	Vithal Rao Arya (m)	Forced and bonded labour system in Andhra Pradesh
Arya Samaj For Bonded and Child Labour Front, India	Bodagunta Anjaneyulu (m)	Experience as a forced child labourer
Social Economic Assistance for Rural and City Habitants (SEARCH), India	Alka Chandorikar (f)	Legal support to empower Dalit People
Way of Light, Russian Federation	Galina Kourganova (f)	Work with victims of trafficking
Budiope Welfare Action Initiative, Uganda	Agatha Kafuko (f)	Child domestic work in Uganda. From awareness-raising to effective response: a community-based approach
Total	**7 travel grants, US$ 14 860**[b]	

[a] The beneficiary was allocated a travel grant at the ninth session of the Board of Trustees, but was unable to travel to the Working Group in June 2004. At its tenth session, the Board recommended another travel grant to the beneficiary.

[b] Beneficiaries are entitled to a round-trip aeroplane ticket and a stipend of US$ 175 for each day of attendance, plus two extra days for travel.

B. Project grants

Organization and country	*Title of project or aspect covered*	*Approved grant (in United States dollars)*
Africa		
Cheng development youth group, Kenya	Civil child network	4 630
Niger Delta Environment and Relief Foundation (NIDEREF), Nigeria	Rehabilitation and reintegration of women victims of trafficking and contemporary forms of slavery in Ogoni	10 000
Budiope Welfare Action Initiative, Uganda	Community Action against Humanity Abuse	12 000
Oeuvres sociales pour le développement, Democratic Republic of the Congo	Prise en charge des bébés abandonnés à la naissance par les mamans : Lutte contre la vente illicite des bébés	9 000
Americas		
New Opportunities for Women, Canada Society, Canada	Healthy living project	5 000
Clubes Juveniles MOANI, Chile	Acompañamiento a niños y niñas trabajadores "ANDA"	15 000
Fundación Kootirawa, Colombia	Talleres de sensibilización y fortalecimiento organizativo de 300 mujeres pertenecientes a ocho pueblos indígenas del caribe colombiano y dedicadas al trabajo doméstico en zonas urbanas colombianas.	10 000
Institut national d'appui et de promotion à l'entraide à la solidarité et la coopération pour le triomphe des libertés et des droits de l'homme, Haiti	Recensement des enfants en situation de Restavek dans la commune des Cayes	12 000
Asia		
Interband, Cambodia	Training on rehabilitation of child labourers	4 000
People Health Organization for Development, Cambodia	Broadcasting through billboard child labour	5 900
Charitable Development Society of Bangladesh (CDS), Bangladesh	Survive the Slavery Peoples in Madhupur	12 000
Social and Economic Assistance for Rural and City Habitants (SEARCH), India	Human rights campaign for Maharashtra Eunuchs	6 800
Kathuriba Mahila Mandali, India	Child labour rehabilitation and reformation programme in Markapuram	10 000
Vedika, India	Hope for Life	10 000
The Kurnool Don Bosco Kurnool Society, India	A ray of hope for children in despair	10 000

Organization and country	*Title of project or aspect covered*	*Approved grant (in United States dollars)*
Arya Samaj for Bonded Labour-Child Labour Front, India	Assistance to domestic and bonded child labour victims and awareness-raising campaign on child marriages, health and right to education	5 000
Social Agriculture Children's Education and Women Development Trust (SACEWD), India	Releasing children from slavery	10 000
Nithya Krushi Rural Development Educational and Health Society, India	Child labour rehabilitation school in Ananthapuram	10 000
Children-Women in Social Service and Human Rights (CWISH), Nepal	Action to end child servitude in Nepal	10 000
Insan Dost Association, Pakistan	Non-formal educational project	10 000
Lumah Ma Dilaut Centre for Living Traditions (affiliate member of the Asian Muslim Action Network in the Philippines (AMANPHIL)), Philippines	Piloting a return-resettlement and rehabilitation programme to emancipate the Philippines Sea nomads from enslavement in the exploitative system, also known as the *Partida*	10 000
Hotline Bangladesh, Bangladesh	Child rights and education	10 000
Mahila Seva Samithi, India	Empowerment of rural poor women through dairy development occupation	2 000
Mahila Seva Samithi, India	Rehabilitation with education and development to the poor child labourers	2 000
Europe		
Public Innovation Foundation of Tatarstan, Russian Federation	Kazan Assistance Centre for persons suffering from contemporary forms of slavery	10 000
Total	**25 projects**	**215 300**